

[HOUSE ARMED SERVICES COMMITTEE PRINT]

PAY AND ALLOWANCES OF THE UNIFORMED SERVICES

Pursuant to

TITLE 37, UNITED STATES CODE (PUBLIC LAW 87-649)

As amended through October 2, 1963

And including changes and amendments made by:

The Dependents Assistance Act of 1950 (50 App. U.S.C. 2201-2216);
The Act of June 27, 1962, Public Law 87-500 (76 Stat. 111);
The Act of July 10, 1962, Public Law 87-531 (76 Stat. 152);
The Act of October 9, 1962, Public Law 87-777 (76 Stat. 777);
The Act of March 28, 1963, Public Law 88-2 (77 Stat. 4); and
The Uniformed Services Pay Act of 1963 (77 Stat. 210).

AN ACT¹

To revise, codify, and enact title 37 of the United States Code, entitled "Pay and Allowances of the Uniformed Services".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the laws relating to pay and allowances² of the uniformed services of the United States are revised, codified, and enacted as title 37 of the United States Code, entitled "Pay and Allowances of the Uniformed Services"³ and may be cited as "37 U.S.C., § _____", as follows:

TITLE 37—PAY AND ALLOWANCES OF THE UNIFORMED SERVICES

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¹ 76 Stat. 451.

² See laws repealed by section 14 of the Act of September 7, 1962, Public Law 87-649 (76 Stat. 498).

³ Enactment as title 37, United States Code.

CHAPTER 1—DEFINITIONS

Sec.

101. Definitions

§ 101. Definitions

In addition to the definitions in sections 1-5 of title 1,⁴ for the purposes of this title—

- (1) "United States", in a geographic sense, means the States and the District of Columbia;
- (2) "possessions" includes the Canal Zone, Guam, American Samoa, and the guano islands;
- (3) "uniformed services" means the Army, Navy, Air Force, Marine Corps, Coast Guard, Coast and Geodetic Survey, and Public Health Service;
- (4) "armed forces" means the Army, Navy, Air Force, Marine Corps, and Coast Guard;
- (5) "Secretary concerned" means—
 - (A) the Secretary of the Army, with respect to matters concerning the Army;
 - (B) the Secretary of the Navy, with respect to matters concerning the Navy, the Marine Corps, and the Coast Guard when it is operating as a service in the Navy;
 - (C) the Secretary of the Air Force, with respect to matters concerning the Air Force;
 - (D) the Secretary of the Treasury, with respect to matters concerning the Coast and Geodetic Survey; and
 - (E) the Secretary of Health, Education, and Welfare, with respect to matters concerning the Public Health Service;
- (6) "National Guard" means the Army National Guard and the Air National Guard;
- (7)⁵ "Army National Guard" means that part of the organized militia of the several States, Puerto Rico, the Canal Zone, and the District of Columbia, active and inactive, that—
 - (A) is a land force;
 - (B) is trained, and has its officers appointed, under the sixteenth clause of section 8, article I, of the Constitution;
 - (C) is organized, armed, and equipped wholly or partly at Federal expense; and
 - (D) is federally recognized;
- (8) "Army National Guard of the United States" means the reserve component of the Army all of whose members are members of the Army National Guard;
- (9) "Air National Guard" means that part of the organized militia of the several States, Puerto Rico, the Canal Zone, and the District of Columbia, active and inactive, that—
 - (A) is an air force;
 - (B) is trained, and has its officers appointed, under the sixteenth clause of section 8, article I, of the Constitution;
 - (C) is organized, armed, and equipped wholly or partly at Federal expense; and
 - (D) is federally recognized;

⁴ 61 Stat. 633; 62 Stat. 859.
⁵ 76 Stat. 462.

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- (10) "Air National Guard of the United States" means the reserve component of the Air Force all of whose members are members of the Air National Guard;
- (11) "officer" means commissioned or warrant officer;
- (12) "commissioned officer" includes a commissioned warrant officer;
- (13) "warrant officer" means a person who holds a commission or warrant in a warrant officer grade;
- (14) "enlisted member" means a person in an enlisted grade;
- (15) "grade" means a step or degree, in a graduated scale of office or rank, that is established and designated as a grade by law or regulation;
- (16) "rank" means the order of precedence among members of the uniformed services;
- (17) "rating" means the name (such as "boatswain's mate") prescribed for members of a uniformed service in an occupational field; "rate" means the name (such as "chief boatswain's mate") prescribed for members in the same rating or other category who are in the same grade (such as chief petty officer or seaman apprentice);
- (18) "active duty" means full-time duty in the active service of a uniformed service, and includes duty on the active list, full-time training duty, annual training duty, and attendance, while in the active service, at a school designated as a service school by law or by the Secretary concerned;
- (19) "active duty for a period of more than 30 days" means active duty under a call or order that does not specify a period of 30 days or less;
- (20) "active service" means service on active duty;
- (21) "pay" includes basic pay, special pay, retainer pay, incentive pay, retired pay, and equivalent pay, but does not include allowances;
- (22) "inactive-duty training" means—
 - (A) duty prescribed for members of a reserve component by the Secretary concerned under section 206 of this title or any other law; and
 - (B) special additional duties authorized for members of a reserve component by an authority designated by the Secretary ⁶ concerned and performed by them on a voluntary basis in connection with the prescribed training or maintenance activities of the units to which they are assigned;and includes those duties when performed by members of a reserve component in their status as members of the National Guard, but does not include work or study in connection with a correspondence course of a uniformed service;
- (23) "member" means a person appointed or enlisted in, or conscripted into, a uniformed service; and
- (24) "reserve component" means—
 - (A) the Army National Guard of the United States;
 - (B) the Army Reserve;
 - (C) the Naval Reserve;
 - (D) the Marine Corps Reserve;
 - (E) the Air National Guard of the United States;

⁶ 76 Stat. 458.

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- (F) the Air Force Reserve;
- (G) the Coast Guard Reserve; or
- (H) the Reserve Corps of the Public Health Service.

CHAPTER 3—BASIC PAY

Sec.

- 201. Pay grades: assignment to; general rules.
- 202. Pay grades: assignment to; rear admirals of upper half; officers holding certain position in the Navy.
- 203. Rates.
- 204. Entitlement.
- 205. Computation: service creditable.
- 206. Reserves; members of National Guard; inactive-duty training.
- 207. Band leaders.
- 208. Furlough pay: officers of Regular Navy or Regular Marine Corps.
- 209. Members of naval officer candidate programs.

§ 201. Pay grades: assignment to; general rules:

(a) For the purpose of computing their basic pay, commissioned officers of the uniformed services (other than commissioned warrant officers) are assigned by the grade or rank in which serving to the following pay grades:

Pay grade	Army, Air Force, and Marine Corps	Navy, Coast Guard, and Coast and Geodetic Survey	Public Health Service
O-10	General	Admiral	
O-9	Lieutenant general	Vice admiral	
O-8	Major general	Rear admiral (upper half)	Surgeon General. Deputy Surgeon General. Assistant Surgeon General having rank of major general.
O-7	Brigadier general	Rear admiral (lower half) and commodore	Assistant Surgeon General having rank of brigadier general.
O-6	Colonel	Captain	Director grade.
O-5	Lieutenant colonel	Commander	Senior grade.
O-4	Major	Lieutenant commander	Fall grade.
O-3	Captain	Lieutenant	Senior assistant grade.
O-2	1st lieutenant	Lieutenant (junior grade)	Assistant grade.
O-1	2d lieutenant	Ensign	Junior assistant grade.

(b) A contract surgeon who is serving full time with a uniformed service is entitled to the basic pay of a commissioned officer in pay grade O-3 with over four, but not more than six, years of service computed under section 205 of this title.⁷

(c) A cadet at the United States Military Academy, the United States Air Force Academy, or the Coast Guard Academy, or a midshipman at the United States Naval Academy, is entitled to monthly pay at the rate of 50 percent of the basic pay of a commissioned officer in pay grade O-1 with two or less years of service computed under section 205 of this title.

(d) * For the purpose of computing their basic pay, warrant officers of the armed forces are assigned, by the warrant officer grade in which serving, to the following pay grades:

Pay Grade	Warrant Officer Grade
W-4	Chie Warrant Officer, W-4.
W-3	Chief Warrant Officer, W-3.
W-2	Warrant Officer, W-2.
W-1	Warrant Officer, W-1.

⁷ Amended by sec. 3 of the Uniformed Services Pay Act of 1963 (77 Stat. 210).

* 76 Stat. 451.

(e) An aviation cadet of the Navy, Air Force, or Marine Corps is entitled to monthly basic pay at the rate of 50 percent of the basic pay of a commissioned officer in pay grade O-1 with two or less years of service computed under section 205 of this title.

(f) Unless he is entitled to the basic pay of a higher pay grade, an aviation pilot of the Naval Reserve, Marine Corps Reserve, or Coast Guard Reserve is entitled to monthly basic pay at the rate prescribed for pay grade E-5.

(g) Except as provided by subsections (e) and (f) of this section, enlisted members of the uniformed services shall, for the purpose of computing their basic pay, be distributed by the Secretary concerned in the various enlisted pay grades set forth in section 203 of this title. However, except as provided by section 307 of this title, an enlisted member may not be placed in pay grade E-8 or E-9 until he has completed at least 8 years or 10 years, respectively, of enlisted service computed under section 205 of this title.

§ 202. Pay grades: assignment to; rear admirals of upper half; officers holding certain positions in the Navy

(a) An officer not restricted in the performance of duty on the active list in the line of the Navy serving in the grade of rear admiral is entitled to the basic pay of a rear admiral of the upper half from the date on which the number of officers not restricted in the performance of duty on the active list in the line of the Navy serving in the grade of rear admiral below him on the lineal list becomes equal to or greater than the number of such officers above him on the lineal list. For the purpose of determining the number of rear admirals of the upper half, an officer not restricted in the performance of duty on the active list in the line of the Navy serving in the grade of admiral or vice admiral is considered as having the grade and position on the lineal list he would have if he had not been appointed admiral or vice admiral.

(b) An officer restricted in the performance of duty on the active list in the line of the Navy serving in the grade of rear admiral is entitled to the basic pay of a rear admiral of the upper half from the date on which any officer below him on the lineal list becomes entitled to that pay under subsection (a) of this section.

(c) An officer on the active list of the Navy in a staff corps serving in the grade of rear admiral is entitled to the basic pay of a rear admiral of the upper half from the date on which his running mate becomes entitled to that pay under this section, but not before the date of the vacancy he was promoted to fill.

(d) A rear admiral of the Naval Reserve entitled to basic pay is entitled to the basic pay of a rear admiral of the upper half when any officer on the active list in the line of the Navy junior to him is in the upper half of the grade of rear admiral as determined under subsection (a) of this section.

(e) An officer of the Navy or the Coast Guard holding a permanent appointment in the grade of rear admiral on the retired list who is

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entitled to the basic pay of a rear admiral of the lower half and who, in time of war or national emergency, has served satisfactorily on active⁹ duty for two years in that grade or in a higher grade is entitled when on active duty to the basic pay of a rear admiral of the upper half.

(f) Except for those whose basic pay is otherwise specifically authorized by law, the number of rear admirals on the active list of the Coast Guard entitled to the basic pay of a rear admiral of the upper half is one-half of the number of officers on the active list in that grade. If that division results in an odd number, the odd number shall be placed in the upper half. However, an officer who is entitled to the basic pay of a rear admiral of the upper half may not have his basic pay reduced solely because the number of rear admirals is reduced.

(g) Unless appointed to a higher grade under another provision of law, an officer of the Marine Corps, while serving as Judge Advocate General of the Navy or as Chief of the Bureau of Naval Weapons, is entitled to the basic pay of a major general.

(h) Unless appointed to a higher grade under another provision of law, an officer of the naval service who is serving in one of the following positions is entitled to the basic pay of a rear admiral of the upper half -

- (1) Director of Budget and Reports;
- (2) Chief of Naval Material;
- (3) Chief of a Bureau;
- (4) Chief of the Dental Division in the Bureau of Medicine and Surgery;
- (5) Chief of Chaplains;
- (6) Judge Advocate General of the Navy; or
- (7) Chief of Naval Research.

(i) An officer of the naval service who is serving in one of the following positions is entitled to the highest pay of his rank -

- (1) Assistant Director of Budget and Reports;
- (2) detailed to duty as a Deputy Chief of a Bureau;
- (3) detailed as Assistant Judge Advocate General of the Navy;
- (4) Assistant Chief of Naval Research; or
- (5) Assistant Commandant of the Marine Corps.

(j) An officer on the active list of the Navy in the grade of rear admiral who is serving as Deputy Comptroller of the Navy is entitled to the basic pay of a rear admiral of the upper half.

§ 203.¹⁰ Rates

(a) The rates of monthly basic pay for members of the uniformed services within each pay grade are set forth in the following tables:

⁹ 76 Stat. 455.
¹⁰ 76 Stat. 456.

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COMMISSIONED OFFICERS

Pay grade	Years of service computed under sec. 205						
	2 or less	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10
O-10 ¹	\$1,200.00	\$1,315	\$1,315	\$1,315	\$1,315	\$1,365	\$1,365
O-9	1,063.30	1,155	1,180	1,180	1,180	1,210	1,210
O-8	963.30	1,050	1,075	1,075	1,075	1,155	1,155
O-7	800.28	905	905	905	905	945	945
O-6	692.80	690	735	735	735	735	735
O-5	474.24	590	630	630	630	630	650
O-4	400.14	515	550	550	550	585	625
O-3 ²	326.04	440	470	520	545	565	595
O-2 ²	259.36	375	450	465	475	475	475
O-1 ²	222.30	300	375	375	375	375	375

Pay grade	Years of service computed under sec. 205							
	Over 12	Over 14	Over 16	Over 18	Over 20	Over 22	Over 26	Over 30
O-10 ¹	\$1,470	\$1,470	\$1,575	\$1,575	\$1,680	\$1,680	\$1,785	\$1,785
O-9	1,260	1,260	1,365	1,365	1,470	1,470	1,575	1,575
O-8	1,210	1,210	1,260	1,315	1,365	1,420	1,420	1,420
O-7	1,000	1,050	1,155	1,235	1,235	1,235	1,235	1,235
O-6	735	760	880	925	945	1,000	1,085	1,085
O-5	685	730	785	830	855	885	885	885
O-4	660	600	720	740	740	740	740	740
O-3 ²	625	640	640	640	640	640	640	640
O-2 ²	475	475	475	475	475	475	475	475
O-1 ²	375	375	375	375	375	375	375	375

¹ While serving as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps, basic pay for this grade is \$1,970 regardless of cumulative years of service computed under sec. 205 of this title.

² Does not apply to commissioned officers who have been credited with over 4 years' active service as an enlisted member.

COMMISSIONED OFFICERS WHO HAVE BEEN CREDITED WITH OVER 4 YEARS' ACTIVE SERVICE AS AN ENLISTED MEMBER

Pay grade	Years of service computed under sec. 205											
	Over 4	Over 6	Over 8	Over 10	Over 12	Over 14	Over 16	Over 18	Over 20	Over 22	Over 26	Over 30
O-3	\$520	\$545	\$565	\$595	\$625	\$650	\$650	\$650	\$650	\$650	\$650	\$650
O-2	465	475	490	515	535	550	550	550	550	550	550	550
O-1	375	400	415	430	445	465	465	465	465	465	465	465

WARRANT OFFICERS

Pay grade	Years of service computed under sec. 205							
	2 or less	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10	
W-4	\$332.00	\$430	\$430	\$440	\$460	\$480	\$500	\$535
W-3	302.64	395	395	400	405	435	460	475
W-2	264.82	345	345	355	375	395	410	425
W-1	219.42	305	305	330	345	360	375	390

Pay grade	Years of service computed under sec. 205						
	Over 14	Over 16	Over 18	Over 20	Over 22	Over 26	Over 30
W-4	\$560	\$580	\$595	\$615	\$635	\$685	\$685
W-3	490	505	520	540	560	580	580
W-2	440	455	470	485	505	505	505
W-1	405	420	435	450	450	450	450

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ENLISTED^{10a} MEMBERS

Pay grade	Years of service computed under sec. 205							
	2 or less	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10	Over 12
E-9							\$135	\$445
E-8							375	385
E-7	\$206.39	\$275	\$295	\$295	\$305	315	325	335
E-6	175.81	240	250	260	270	280	290	305
E-5	145.24	210	220	230	245	255	265	275
E-4	122.30	180	190	205	215	215	215	215
E-3	99.37	145	155	165	165	165	165	165
E-2	85.80	120	120	120	120	120	120	120
E-1	83.20	110	110	110	110	110	110	110
E-1 (under 4 months)	76.00							

Pay grade	Years of service computed under sec. 205						
	Over 14	Over 16	Over 18	Over 20	Over 22	Over 26	Over 30
E-9	\$455	\$465	\$475	\$485	\$510	\$560	\$560
E-8	395	405	415	425	450	500	500
E-7	350	360	370	375	400	450	450
E-6	315	325	330	350	330	330	330
E-5	280	280	290	290	290	280	280
E-4	215	215	215	215	215	215	215
E-3	165	165	165	165	165	165	165
E-2	120	120	120	120	120	120	120
E-1	110	110	110	110	110	110	110

(b) While serving as a permanent professor at the United States Military Academy or the United States Air Force Academy, an officer who has over 36 years of service computed under section 205 of this title is, in addition to the pay and allowances to which he is otherwise entitled under this title, entitled to additional pay in the amount of \$250 a month. This additional pay may not be used in the computation of retired pay.¹¹

§ 204. Entitlement

(a) Except for members covered by section 202(i) of this title, the following persons are entitled to the basic pay of the pay grade to which assigned or distributed, in accordance with their years of service computed under section 205 of this title -

- (1) a member of a uniformed service who is on active duty; and
- (2) a member of a uniformed service, or a member of the National Guard who is not a Reserve of the Army or the Air Force, who is participating in full-time training, training duty with pay, or other full-time duty, provided by law, including participation in exercises or the performance of duty under section 3033, 3496, 3541, 8033, 8496, or 8541 of title 10,¹² or section 503, 504, 505, or 506 of title 32.¹³

(b) For the purposes of subsection (a) of this section, under regulations prescribed by the President, the time necessary for a member of a uniformed service who is called or ordered to active duty for a period of more than 30 days to travel from his home to his first

^{10a} 76 Stat. 457.

¹¹ Amended by sec. 2 of the Uniformed Services Pay Act of 1963 (77 Stat. 210).

¹² 70A Stat. 101, 198, 202, 491, 524, 527.

¹³ 70A Stat. 610.

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duty station and from his last duty station to his home, by the mode of transportation authorized in his call or orders, is considered active duty.

(c) A member of the National Guard who is called into Federal service for a period of 30 days or less is entitled to basic pay from the date when he appears at the place of company rendezvous. However, this subsection does not authorize any expenditure before arriving at the place of rendezvous that is not authorized by law to be paid after arrival at that place.

(d) Full-time training, training duty with pay, or other full-time duty performed by a member of the Army National Guard of the United States or the Air National Guard of the United States in his status as a member of the National Guard, is active duty for the purposes of this section.

(e) A payment accruing under any law to a member of a uniformed service incident to his release from active duty or for his return home incident to that release may be paid to him before his departure from his¹⁴ last duty station, whether or not he actually performs the travel involved. If a member receives a payment under this subsection but dies before that payment would have been made but for this subsection, no part of that payment may be recovered by the United States.

(f) A cadet of the United States Military Academy or the United States Air Force Academy, or a midshipman of the United States Naval Academy, who, upon graduation from one of those academies, is appointed as a second lieutenant of the Army or the Air Force is entitled to the basic pay of pay grade O-1 beginning upon the date of his graduation.

(g) A member of the Army or the Air Force (other than of the Regular Army or the Regular Air Force) is entitled to the pay and allowances provided by law or regulation for a member of the Regular Army or the Regular Air Force, as the case may be, of corresponding grade and length of service, whenever—

(1) he is called or ordered to active duty (other than for training under section 270(b) of title 10¹⁵) for a period of more than 30 days, and is disabled in line of duty from disease while so employed; or

(2) he is called or ordered to active duty, or to perform inactive-duty training, for any period of time, and is disabled in line of duty from injury while so employed.

(h) A member of the National Guard is entitled to the pay and allowances provided by law or regulation for a member of the Regular Army or the Regular Air Force, as the case may be, of corresponding grade and length of service, whenever he is called or ordered to perform training under section 502, 503, 504, or 505 of title 32¹⁶—

(1) for a period of more than 30 days, and is disabled in line of duty from disease while so employed; or

(2) for any period of time, and is disabled in line of duty from injury while so employed.

(i) A member of the Naval Reserve, Fleet Reserve, Marine Corps Reserve, Fleet Marine Corps Reserve, or Coast Guard Reserve is

¹⁴ 76 Stat. 458.

¹⁵ 72 Stat. 1438.

¹⁶ 70A Stat. 610.

entitled to the pay and allowances provided by law or regulation for a member of the Regular Navy, Regular Marine Corps, or Regular Coast Guard, as the case may be, of corresponding grade and length of service, under the same conditions as those described in clauses (1) and (2) of subsection (g) of this section.

§ 205. Computation: service creditable

(a) Subject to subsections (b) - (d) of this section, for the purpose of computing the basic pay of a member of a uniformed service, his years of service are computed by adding:

(1) all periods of active service as an officer, Army field clerk, flight officer, or enlisted member of a uniformed service;

(2) all periods during which he was enlisted or held an appointment as an officer, Army field clerk, or flight officer of:

(A) a regular component of a uniformed service;

(B) the Regular Army Reserve;

(C) the Organized Militia before July 1, 1916;

(D) the National Guard;

(E) the National Guard Reserve;

(F) a reserve component of a uniformed service;

(G) the Naval Militia;

(H) the National Naval Volunteers;

(I) the Naval Reserve Force;

(J) the Army without specification of component;

(K) the Air Force without specification of component;

(L)¹⁷ the Marine Corps Reserve Force;

(M) the Philippine Scouts; or

(N) the Philippine Constabulary;

(3) for a commissioned officer in service on June 30, 1922, all service that was then counted in computing longevity pay and all service as a contract surgeon serving full time;

(4) all periods during which he held an appointment as a nurse, reserve nurse, or commissioned officer in the Army Nurse Corps as it existed at any time before April 16, 1947, the Navy Nurse Corps as it existed at any time before April 16, 1947, or the Public Health Service, or a reserve component of any of them;

(5) all periods during which he was a deck officer or junior engineer in the Coast and Geodetic Survey;

(6) all periods that, under law in effect on January 10, 1962, were authorized to be credited in computing basic pay;

(7) for an officer of the Medical Corps or Dental Corps of the Army or Navy, an officer of the Air Force designated as a medical or dental officer, or an officer of the Public Health Service commissioned as a medical or dental officer four years;

(8) for a medical officer named in clause (7) who has completed one year of medical internship or the equivalent thereof one year in addition to the four years prescribed by clause (7); and

(9) all periods while:

(A) on a temporary disability retired list, honorary retired list, or a retired list of a uniformed service;

(B) entitled to retired pay, retirement pay, or retainer pay, from a uniformed service or the Veterans' Administration, as a member of the Fleet Reserve or the Fleet Marine Corps Reserve; or

(C) a member of the Honorary Reserve of the Officers' Reserve Corps or the Organized Reserve Corps.

Except for any period of active service described in clause (1) of this subsection and except as provided by section 1402(b)-(d) of title 10,¹⁸ a period of service described in clauses (2)-(9) of this subsection that is performed while on a retired list, in a retired status, or in the Fleet Reserve or Fleet Marine Corps Reserve, may not be included to increase retired pay, retirement pay, or retainer pay.

(b) A period of time may not be counted more than once under subsection (a) of this section. In addition, the amount of service authorized to be credited under clause (7) or (8) of subsection (a) of this section to an officer shall be reduced by the amount of any service otherwise creditable under that subsection that covers any part of his professional education or internship.

(c) Notwithstanding any other law, service credited under clause (7) or (8) of subsection (a) of this section may not—

- (1) be included in establishing eligibility for voluntary or involuntary retirement or separation from a uniformed service;
- (2) increase the retired or retirement pay of a person who became entitled to that pay before May 1, 1956; or
- (3) increase the retired pay of a person who is entitled to that pay under chapter 67 of title 10, after April 30, 1956, and who does not perform active duty after May 1, 1956.

(d) The periods of service authorized to be counted under subsection (a) of this section shall, under regulations prescribed by the Secretary concerned, include service performed by a member of a uniformed service before he became 18 years of age.

§ 206.¹⁹ Reserves; members of National Guard: inactive-duty training

(a) Under regulations prescribed by the Secretary concerned, and to the extent provided for by appropriations, a member of the National Guard or a member of a reserve component of a uniformed service who is not entitled to basic pay under section 204 of this title, is entitled to compensation, at the rate of 1/30 of the basic pay authorized for a member of a uniformed service of a corresponding grade entitled to basic pay, for each regular period of instruction, or period of appropriate duty, at which he is engaged for at least two hours, including that performed on a Sunday or holiday, or for the performance of such other equivalent training, instruction, duty, or appropriate duties, as the Secretary may prescribe.

(b) The regulations prescribed under subsection (a) of this section for each uniformed service, the National Guard, and each of the classes of organization of the reserve components within each uniformed service, may be different. The Secretary concerned shall, for the National Guard and each of the classes of organization within each uniformed service, prescribe—

- (1) minimum standards that must be met before an assembly for drill or other equivalent period of training, instruction, duty, or appropriate duties may be credited for pay purposes, and those standards may require the presence for duty of officers and enlisted members in numbers equal to or more than a minimum number or percentage of the unit strength for a specified period of time with participation in a prescribed kind of training;

¹⁸ 70A Stat. 107.
¹⁹ 76 Stat. 460.

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(2) the maximum number of assemblies or periods of other equivalent training, instruction, duty, or appropriate duties, that may be counted for pay purposes in each fiscal year or in lesser periods of time; and

(3) the minimum number of assemblies or periods of other equivalent training, instruction, duty, or appropriate duties that must be completed in stated periods of time before the members of units or organizations can qualify for pay.

(c) A person enlisted in the inactive National Guard is not entitled to pay under this section.

(d) This section does not authorize compensation for work or study performed by a member of a reserve component in connection with correspondence courses of an armed force.

§ 207. Band leaders

(a) The leader of the Army Band is entitled to the basic pay of a captain in the Army.

(b) The director of music at the United States Military Academy is entitled to the basic pay of a commissioned officer whose grade corresponds to the rank prescribed for the director by the Secretary of the Army.

(c) The leader of the United States Navy Band is entitled to the basic pay of a lieutenant in the Navy.

(d) A member of the Marine Corps who is appointed as director or assistant director of the United States Marine Band under section 6222 of title 10²⁰ is entitled, while serving thereunder, only to the basic pay of an officer in the grade in which he is serving. However, his basic pay may not be less than that to which he was entitled at the time of his appointment under that section.

(e) The leader of the Naval Academy Band is entitled to the basic pay of the grade the Secretary of the Navy prescribes. The second leader is entitled to the basic pay of a warrant officer, W-1.

§ 208.²¹ Furlough pay: officers of Regular Navy or Regular Marine Corps

An officer who is furloughed under section 6406 of title 10²² is entitled to pay at the rate of one-half of the basic pay to which he was entitled at the time of being furloughed.

§ 209. Members of naval officer candidate programs

(a) Except when on active duty, a midshipman appointed under section 6904 of title 10 is entitled to retainer pay at the rate of \$50 a month beginning on the day that he starts his first term of college work under that section and ending upon the completion of his instruction under that section, but not for more than four academic years.

(b) Except when on active duty, a seaman recruit enlisted under section 6905 of title 10 is entitled to retainer pay at the rate of \$50 a month beginning on the day he starts his first term of college work under that section and ending when his instruction under that section is completed.

(c) While in flight training or on flight duty, a midshipman appointed under section 6906 of title 10 is entitled to the pay provided

²⁰ 72 Stat. 1508.

²¹ 70 Stat. 461.

²² 70A Stat. 415.

for a midshipman at the Naval Academy and to an additional amount equal to 50 percent of his pay for duty involving flying.

CHAPTER 5—SPECIAL AND INCENTIVE PAYS

Sec.

301. Incentive pay: hazardous duty.
302. Special pay: physicians and dentists.
303. Special pay: veterinarians.
304. Special pay: diving duty.
305. Special pay: while on sea duty or duty at certain places.²³
306. Special pay: officers holding positions of unusual responsibility and of critical nature.
307. Special pay: proficiency pay for enlisted members.
308. Special pay: reenlistment bonus.
309. Reserves; members of National Guard: additional pay for performance of administrative duty.
310. Special pay: duty subject to hostile fire.²⁴

§ 301. Incentive pay: hazardous duty

(a) Subject to regulations prescribed by the President, a member of a uniformed service who is entitled to basic pay is also entitled to incentive pay, in the amount set forth in subsection (b) or (c) of this section, for the performance of hazardous duty required by orders. For the purposes of this subsection, "hazardous duty" means duty—

- (1) as a crew member, as determined by the Secretary concerned, involving frequent and regular participation in aerial flight;
- (2) as determined by the Secretary concerned, on a submarine (including, in the case of nuclear-powered submarines, periods of training and rehabilitation after assignment thereto), or, in the case of personnel qualified in submarines, as a prospective crew-member of a submarine being constructed, and during periods of instruction to prepare for assignment to a submarine of advanced design or a position of increased responsibility on a submarine;²⁵
- (3) as an operator or crew member of an operational, self-propelled submersible, including undersea exploration and research vehicles;
- (4) involving frequent and regular participation in aerial flight, not as a crew member under clause (1) of this subsection;
- (5) involving frequent and regular participation in glider flights;
- (6) involving parachute jumping as an essential part of military duty;
- (7) involving intimate contact with persons afflicted with leprosy;
- (8) ²⁶ involving the demolition of explosives as a primary duty, including training for that duty;
- (9) inside a high- or low-pressure chamber;²⁷
- (10) as a human acceleration or deceleration experimental subject; or
- (11) as a human test subject in thermal stress experiments.

(b) For the performance of the hazardous duty described in clause

²³ Amended by sec. 12 of the Uniformed Services Pay Act of 1963 (77 Stat. 210).

²⁴ Added by sec. 9 of the Uniformed Services Pay Act of 1963 (77 Stat. 210).

²⁵ Amended by sec. 6 of the Uniformed Services Pay Act of 1963 (77 Stat. 210).

²⁶ 76 Stat. 462.

²⁷ Amended by sec. 7 of the Uniformed Services Pay Act of 1963 (77 Stat. 210).

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(1), (2), or (3) of subsection (a) of this section, a member is entitled to monthly incentive pay as follows:

COMMISSIONED OFFICERS

Pay grade	Years of service computed under section 205						
	2 or less	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10
O-10	\$165	\$165	\$165	\$165	\$165	\$165	\$165
O-9	165	165	165	165	165	165	165
O-8	155	155	155	155	155	155	155
O-7	150	150	150	150	150	150	150
O-6	200	200	215	215	215	215	215
O-5	190	190	205	205	205	205	205
O-4	170	170	185	185	185	185	185
O-3	145	145	155	165	180	185	190
O-2	115	125	150	150	160	155	170
O-1	100	105	135	135	140	145	155

Years of service computed under section 205

Pay grade	Years of service computed under section 205						
	Over 12	Over 14	Over 16	Over 18	Over 22	Over 26	Over 30
O-10	\$165	\$165	\$165	\$165	\$165	\$165	\$165
O-9	165	165	165	165	165	165	165
O-8	165	165	145	165	165	165	165
O-7	160	160	130	160	160	160	160
O-6	215	215	230	245	245	245	245
O-5	210	225	230	245	245	245	245
O-4	215	220	230	240	240	240	240
O-3	200	205	205	205	205	205	205
O-2	180	185	185	185	185	185	185
O-1	160	170	170	170	170	170	170

WARRANT OFFICERS

Pay grade	Years of service computed under section 205						
	2 or less	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10
W-1	\$115	\$115	\$115	\$115	\$120	\$125	\$135
W-3	110	115	115	115	120	120	125
W-2	105	110	110	110	115	120	125
W-1	100	105	105	105	110	120	125

Years of service computed under section 205

Pay grade	Years of service computed under section 205						
	Over 12	Over 14	Over 16	Over 18	Over 22	Over 26	Over 30
W-4	145	155	160	165	165	165	165
W-3	135	140	140	140	140	140	140
W-2	130	135	135	135	135	135	135
W-1	130	130	130	130	130	130	130

ENLISTED MEMBERS

Pay grade	Years of service computed under section 205						
	2 or less	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10
E-9	\$105	\$105	\$105	\$105	\$105	\$105	\$105
E-8	105	105	105	105	105	105	105
E-7	80	85	85	85	90	95	100
E-6	70	75	75	80	85	90	95
E-5	60	70	70	80	80	85	90
E-4	55	65	65	70	75	80	80
E-3	55	60	60	60	60	60	60
E-2	50	60	60	60	60	60	60
E-1	50	55	55	55	55	55	55
E-1 under 4 months	50	50	50	50	50	50	50
Aviation cadets	50	50	50	50	50	50	50

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ENLISTED MEMBERS—Continued

Pay grade	Years of service computed under section 205						
	Over 12	Over 14	Over 16	Over 18	Over 22	Over 26	Over 30
E-9-----	\$105	\$105	\$105	\$105	\$105	\$105	\$105
E-8-----	105	105	105	105	105	105	105
E-7-----	105	105	105	105	105	105	105
E-6-----	95	100	100	100	100	100	100
E-5-----	95	95	95	95	95	95	95
E-4-----	80	80	80	80	80	80	80
E-3-----	60	60	60	60	60	60	60
E-2-----	60	60	60	60	60	60	60
E-1-----	55	55	55	55	55	55	55

(c) For the performance of the hazardous duty described in clause (4), (5), (6), (7), (8), (9), (10), or (11) of subsection (a) of this section, an officer is entitled to \$110 a month and an enlisted member is entitled to \$55 a month.

(d) In time of war, the President may suspend the payment of incentive pay for any hazardous duty described in subsection (a) of this section.

(e) A member is entitled to not more than two payments of incentive pay, authorized by this section, for a period of time during which he qualifies for more than one payment of that pay.²⁸

(f) Under regulations prescribed by the President and to the extent provided for by appropriations, when a member of a reserve component of a uniformed service, or of the National Guard, who is entitled to compensation under section 206 of this title, performs, under orders, any duty described in subsection (a)(1)–(11) of this section for members entitled to basic pay, he is entitled to an increase in compensation equal to 1/30 of the monthly incentive pay authorized by subsection (b) or (c) of this section, as the case may be, for the performance of that hazardous duty by a member of a corresponding grade who is entitled to basic pay. He is entitled to the increase for as long as he is qualified for it, for each regular period of instruction, or period of appropriate duty, at which he is engaged for at least two hours, including that performed on a Sunday or holiday, or for the performance of such other equivalent training, instruction, duty, or appropriate duties, as the Secretary may prescribe under section 206(a) of this title. This subsection does not apply to a member who is entitled to basic pay under section 204 of this title.

(g) The Secretary of each military department shall report to Congress before January 2 each year the number of officers of the Army, Navy, or Air Force, as the case may be, above the grade of major or lieutenant commander, by grade and age group, who are entitled to incentive pay under subsection (a)(1) of this section, and the average monthly incentive pay authorized by that section for

²⁸ Amended by sec. 8 of the Uniformed Services Pay Act of 1963 (77 Stat. 210).

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those officers during the six-month period preceding the date of the report.

§ 302.²⁹ Special pay: physicians and dentists

(a) In addition to any other basic pay, special pay, incentive pay, or allowances to which he is entitled, each of the following officers is entitled to special pay at the rates set forth in subsection (b) of this section—

(1) a commissioned officer—

(A) of the Regular Army or the Regular Navy who is in the Medical or Dental Corps of the Army or the Navy, as the case may be;

(B) of the Regular Air Force who is designated as a medical or dental officer of the Air Force; or

(C) who is a medical or dental officer of the Regular Corps of the Public Health Service;

who was on active duty on September 1, 1947; who retired before that date and was ordered to active duty after that date and before July 1, 1967; or who was appointed or designated as such an officer after September 1, 1947, and before July 1, 1967;³⁰

(2) a commissioned officer—

(A) of a reserve component of the Army or Navy who is in the Medical or Dental Corps of the Army or the Navy, as the case may be;

(B) of a reserve component of the Air Force, of the Army or the Air Force without specification of component, or of the National Guard, who is designated as a medical or dental officer of the Army or the Air Force, as the case may be; or

(C) who is a medical or dental officer of the Reserve Corps of the Public Health Service;

who, after September 1, 1947, and before July 1, 1967, was ordered to active duty for a period of at least one year; and³⁰

(3) a general officer of the Army or the Air Force appointed, from any of the categories named in clause (1) or (2), in the Army, the Air Force, or the National Guard, as the case may be, who was on active duty on September 1, 1947; who was retired before that date and was ordered to active duty after that date and before July 1, 1967; or who, after September 1, 1947, was appointed from any of those categories.³⁰

However, an officer is not entitled to the special pay provided by this section while he is serving as a medical or dental intern.

(b) The amount of special pay to which an officer covered by subsection (a) of this section is entitled is—

(1) \$100 a month for each month of active duty if he has not completed two years of active duty in a category named in that subsection;

(2) \$150 a month for each month of active duty if he has completed at least two years of active duty in a category named in that subsection;

²⁹ 70 Stat. 464.

³⁰ Amended by sec. 5 of the Act of Mar. 28, 1963, Public Law 88-2 (77 Stat. 4).

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(3) \$250 a month for each month of active duty if he has completed at least six years of active duty in a category named in that subsection; and³¹

(4) \$350 a month for each month of active duty if he has completed at least 10 years of active duty in a category named in that subsection.³¹

(c) The amounts set forth in subsection (b) of this section may not be included in computing the amount of an increase in pay authorized by any other provision of this title or in computing retired pay or severance pay.

§ 303.³² Special pay: veterinarians

(a) In addition to any other basic pay, special pay, incentive pay, or allowances to which he is entitled, each of the following officers is entitled to special pay at the rate of \$100 a month for each month of active duty:

(1) a commissioned officer—

(A) of the Regular Army who is in the Veterinary Corps;

(B) of the Regular Air Force who is designated as a veterinary officer; or

(C) who is a veterinary officer of the Regular Corps of the Public Health Service;

who was on active duty on June 29, 1953; who retired before that date and was ordered to active duty after that date and before July 1, 1967; or who was appointed or designated as such an officer after June 29, 1953, and before July 1, 1967;³³

(2) a commissioned officer—

(A) of a reserve component of the Army who is in the Veterinary Corps of the Army;

(B) of a reserve component of the Air Force, of the Army or the Air Force without specification of component, or of the National Guard, who is designated as a veterinary officer of the Army or the Air Force, as the case may be; or

(C) who is a veterinary officer of the Reserve Corps of the Public Health Service;

who was on active duty on June 29, 1953, as a result of a call or order to active duty for a period of at least one year; or who, after that date and before July 1, 1967, was called or ordered to active duty for such a period; and³³

(3) a general officer of the Army or the Air Force appointed, from any of the categories named in clause (1) or (2) of this subsection, in the Army, the Air Force, or the National Guard, as the case may be, who was on active duty on June 29, 1953; who was retired before that date and was ordered to active duty after that date and before July 1, 1967; or who after June 29, 1953, was appointed from one of those categories.³³

(b) The amount set forth in subsection (a) of this section may not be included in computing the amount of an increase in pay authorized by any other provision of this title or in computing retired pay or severance pay.

³¹ Amended by sec. 4 of the Uniformed Services Pay Act of 1963 (77 Stat. 210).

³² 76 Stat. 465.

³³ Amended by sec. 5 of the Act of Mar. 28, 1963, Public Law 88-2 (77 Stat. 4).

§ 304. Special pay: diving duty

(a) Under regulations prescribed by the Secretary concerned, a member of a uniformed service who is entitled to basic pay and who is assigned by orders to the duty of diving is also entitled to special pay at a rate not more than \$110 a month for periods during which diving duty is actually performed. A member may not be paid special pay under this subsection in addition to incentive pay authorized under section 301 of this title.

(b) In time of war, the President may suspend the payment of diving-duty pay.

§ 305. Special pay: while on sea duty or duty at certain places

(a) Except as provided by subsection (b) of this section, under regulations prescribed by the President, an enlisted member of a uniformed service who is entitled to basic pay-

(1) is entitled, while on sea duty, to; or

(2) may be paid while on duty at a designated place outside the contiguous 48 States and the District of Columbia; special pay at the following monthly rates:³⁴

Pay grade	Monthly rate	Pay grade	Monthly rate
E-9	\$22.50	E-4	\$13.00
E-8	22.50	E-3	9.00
E-7	22.50	E-2	8.00
E-6	20.00	E-1	8.00
E-5	16.00		

(b) Appropriations of the Department of Defense may not be paid, as foreign duty pay under subsection (a) of this section, to a member of a uniformed service who is a resident of a State, Puerto Rico, the Virgin Islands, a possession, or a foreign country and who is serving in that State, Puerto Rico, the Virgin Islands, that possession, or that foreign country, as the case may be.³⁴

§ 306.³⁵ Special pay: officers holding positions of unusual responsibility and of critical nature

(a) The Secretary concerned may designate positions of unusual responsibility which are of a critical nature to an armed force under his jurisdiction and may pay special pay, in addition to other pay prescribed by law, to an officer of an armed force who is entitled to the basic pay of pay grade O-3, O-4, O-5, or O-6 and who is performing the duties of such a position, at the following monthly rates:

Pay grade	Monthly rate	Pay grade	Monthly rate
O-6	\$150	O-4	\$50
O-5	100	O-3	50

(b) The Secretary concerned shall prescribe the criteria and circumstances under which officers of an armed force under his jurisdiction are eligible for special pay under this section and, when he considers it necessary, may abolish that special pay.

³⁴ Amended by sec. 12 of the Uniformed Services Pay Act of 1963 (77 Stat. 210).

³⁵ 76 Stat. 460.

(c) Not more than 5 percent of the number of officers on active duty (other than for training) in an armed force in pay grade O-3, and not more than 10 percent of the number of officers on active duty in an armed force in pay grade O-4, O-5, or O-6, may be paid special pay under this section.

(d) This section shall be administered under regulations prescribed by the Secretary of Defense for the armed forces under his jurisdiction, and by the Secretary of the Treasury for the Coast Guard when the Coast Guard is not operating as a service in the Navy.

(e) This section does not apply to a person who is entitled to special pay under section 302 or 303 of this title.

(f) The Secretary of Defense shall report to Congress by March 1 of each year on the administration of this section within each military department during the preceding calendar year. The Secretary of the Treasury shall make a similar report for the Coast Guard when the Coast Guard is not operating as a service in the Navy.

§ 307.³⁶ Special pay: proficiency pay for enlisted members

(a) An enlisted member of a uniformed service who is entitled to basic pay and is designated as being specially proficient in a military skill of the uniformed service concerned may—

(1) be advanced to an enlisted pay grade that is higher than his pay grade at the time of his designation and be entitled to the basic pay and special or incentive pay of that higher grade; or

(2) in addition to other pay or allowances to which he is entitled under this title, be paid proficiency pay at a monthly rate that is not more than the rate prescribed in the following table for the proficiency rating to which he is assigned:

Proficiency rating	Maximum monthly rate
P-1.....	\$50
P-2.....	100
P-3.....	150

(b) An enlisted member who has less than 8 or 10 years, as the case may be, of enlisted service computed under section 205 of this title and who is advanced under subsection (a)(1) of this section to pay grade E-8 or E-9, respectively, is entitled to the minimum amount of basic pay and special or incentive pay prescribed for that pay grade until his years of service computed under that section entitle him to a higher rate of those pays.

(c) The Secretary concerned shall determine whether enlisted members of a uniformed service under his jurisdiction are to be paid proficiency pay either under subsection (a)(1) or (a)(2) of this section. However, he may elect only one of these methods for each uniformed service under his jurisdiction. If he elects to have proficiency pay paid under subsection (a)(1) of this section, enlisted members in a military grade or rank assigned to pay grade E-8 or E-9 may be paid proficiency pay at a monthly rate that is not more than the highest rate prescribed by subsection (a)(2) of this section. If he elects to

³⁶ 70 Stat. 467.

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have proficiency pay paid under subsection (a)(2) of this section, he shall prescribe, within the limitations set forth in that subsection, the pay for each proficiency rating prescribed therein. He shall also designate, from time to time, those skills within each uniformed service under his jurisdiction for which proficiency pay is authorized, and shall prescribe the criteria under which members of that uniformed service are eligible for a proficiency rating in each skill. He may, when he considers it necessary, increase, decrease, or abolish proficiency pay for any skill.

(d) This section shall be administered under regulations prescribed by the Secretary of Defense for the uniformed services under his jurisdiction, and by the Secretary of the Treasury for the Coast Guard when the Coast Guard is not operating as a service in the Navy.

§ 308. Special pay: reenlistment bonus

(a) Subject to subsections (b) and (c) of this section, a member of a uniformed service who reenlists in a regular component of the service concerned within three months after the date of his discharge or release from compulsory or voluntary active duty (other than for training), or who voluntarily extends his enlistment for at least two years, and who³⁷ is not covered by section 207 of the Career Compensation Act of 1949, as amended (70 Stat. 338), is entitled to a bonus computed as follows:

Reenlistment involved ¹	Column (1) Take —	Column (2) Multiply by —
First.....	Monthly basic pay to which member was entitled at the time of discharge or release. ²	Number of years specified in reenlist- ment contract, or six, if none speci- fied. ³
Second.....	Two-thirds of the monthly basic pay to which the member was entitled at the time of discharge or release. ⁴	Do. ³
Third.....	One-third of the monthly basic pay to which the member was entitled at the time of discharge or release. ⁴	Do. ³
Fourth (and subse- quent).....	One-sixth of the monthly basic pay to which the member was entitled at the time of discharge or release. ⁴	Do. ³

¹ Any reenlistment when a bonus was not authorized is not counted.

² Two-thirds of the monthly basic pay in the case of a member in pay grade E-1 at the time of discharge or release.

³ On the sixth anniversary of an indefinite reenlistment, and on each anniversary thereafter, the member is entitled to a bonus equal to one third of the monthly basic pay to which he is entitled on that anniversary date.

⁴ A bonus may not be paid to a member in pay grade E-1 or E-2 at the time of discharge or release.

⁵ A bonus may not be paid to a member in pay grade E-1, E-2, or E-3 at the time of discharge or release.

(b) A member who reenlists —

- (1) during his prescribed period of basic recruit training; or
- (2) after completing 20 years of active Federal service;

is not entitled to a bonus. A member who reenlists before completing 20 years of active Federal service, but who will, under that enlistment, complete more than 20 years of that service, is entitled to a bonus computed by using as a multiplier only the number of years that, when added to his previous service, totals 20 years.

(c) The total amount that may be paid to a member under this section, or under this section and any other law authorizing a reenlistment bonus, may not be more than \$2,000.

(d) An officer of a uniformed service who reenlists in that service within three months after his release from active duty as an officer is

entitled to a bonus computed under subsection (a) of this section, if he served as an enlisted member in that service immediately before serving as an officer. For the purposes of this subsection, the monthly basic pay, or appropriate fraction if the member received a bonus for a prior enlistment, of the grade in which he is enlisted, computed in accordance with his years of service computed under section 205 of this title, shall be used in column 1 of the table in subsection (a) of this section instead of the monthly basic pay to which he was entitled at the time of his release from active duty as an officer.

(e) Under regulations approved by the Secretary of Defense, or by the Secretary of the Treasury with respect to the Coast Guard, a member who voluntarily, or because of his misconduct, does not complete the term of enlistment for which a bonus was paid to him under this section shall refund that percentage of the bonus that the unexpired part of his enlistment is of the total enlistment period for which the bonus was paid.

(f) The Secretary concerned may prescribe regulations for the administration of this section in his department.

§ 309. Reserves; members of National Guard: additional pay for performance of administrative duty

(a) Under regulations prescribed by the Secretary concerned, an officer of the National Guard or of a reserve component of a uniformed service who commands an organization, and has administrative functions connected with it, is entitled to not more than \$240 a year for the³⁸ faithful performance of those functions, in addition to pay to which he is entitled under section 206 of this title.

(b) For the purpose of determining the amounts to be paid to officers performing the functions described in subsection (a) of this section, the Secretary concerned may, from time to time, divide those officers into classes and fix the amount payable to officers in each class.

(c) This section does not apply to an officer who is entitled to basic pay under section 204 of this title.

§ 310. Special pay: duty subject to hostile fire

(a) Except in time of war declared by Congress, and under regulations prescribed by the Secretary of Defense, a member of a uniformed service may be paid special pay at the rate of \$55 a month for any month in which he was entitled to basic pay and in which he—

(1) was subject to hostile fire or explosion of hostile mines;

(2) was on duty in an area in which he was in imminent danger of being exposed to hostile fire or explosion of hostile mines and in which, during the period he was on duty in that area, other members of the uniformed services were subject to hostile fire or explosion of hostile mines; or

(3) was killed, injured, or wounded by hostile fire, explosion of a hostile mine, or any other hostile action.

A member covered by clause (3) who is hospitalized for the treatment of his injury or wound may be paid special pay under this section for not more than three additional months during which he is so hospitalized.

(b) A member may not be paid more than one special pay under this section for any month. A member may be paid special pay under

³⁸ 76 Stat. 400.

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this section in addition to any other pay and allowances to which he may be entitled.

(c) Any determination of fact that is made in administering this section is conclusive. Such a determination may not be reviewed by any other officer or agency of the United States unless there has been fraud or gross negligence. However, the determination may be changed on the basis of new evidence or for other good cause.

(d) The Secretary of Defense shall report to Congress by March 1 of each year on the administration of this section during the preceding calendar year.³⁹

CHAPTER 7 - ALLOWANCES

Sec.

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- 402. Basic allowance for subsistence.
- 403. Basic allowance for quarters.
- 404. Travel and transportation allowances; general.
- 405. Travel and transportation allowances: per diem while on duty outside the United States or in Hawaii or Alaska.
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§ 401. Definitions

In this chapter, "dependent", with respect to a member of a uniformed service, means--

- (1) his spouse;
- (2) his unmarried legitimate child (including a stepchild, or an adopted child, who is in fact dependent on the member) who either--
 - (A) is under 21 years of age; or
 - (B) is incapable of self-support because of a mental or physical incapacity, and in fact dependent on the member for over one-half of his support; and
- (3) his parent (including a stepparent or parent by adoption, and any person, including a former stepparent, who has stood in loco parentis to the member at any time for a continuous period

³⁹ Sec. 310 added by sec. 9 of the Uniformed Services Pay Act of 1963 (77 Stat. 210).

⁴⁰ Added by sec. 11 of the Uniformed Services Pay Act of 1963 (77 Stat. 210).

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of at least five years before he became 21 years of age) who is in fact dependent on the member for over one-half of his support and actually resides in the member's household.⁴¹

However, a person is not a dependent of a female member unless he is in fact dependent on her for over one-half of his support. For the purposes of this section, the relationship between a stepparent and his stepchild is terminated by the stepparent's divorce from the parent by blood.

§ 402.⁴² Basic allowance for subsistence

(a) Except as otherwise provided by this section or by another law, each member of a uniformed service who is entitled to basic pay is entitled to a basic allowance for subsistence in the amount set forth in subsection (d) of this section.

(b) An enlisted member is entitled to the basic allowance for subsistence, on a daily basis, of one of the following types—

- (1) when rations in kind are not available;
- (2) when permission to mess separately is granted; and
- (3) when assigned to duty under emergency conditions where no messing facilities of the United States are available.

The allowance to an enlisted member, when authorized, may be paid in advance for a period of not more than three months. An enlisted member is entitled to the allowance while on an authorized leave of absence or while confined in a hospital, but not while being subsisted at the expense of the United States. The allowance for enlisted members who are on leave, or are otherwise authorized to mess separately, shall be equal to the cost of the ration as determined by the Secretary of Defense. Unless he is entitled to basic pay under chapter 3 of this title, an enlisted member of a reserve component of a uniformed service, or of the National Guard, is entitled, in the discretion of the Secretary concerned, to rations in kind, or a part thereof, when the instruction or duty periods, described in section 206(a) of this title, total at least eight hours in a calendar day.

(c) An officer of a uniformed service who is entitled to basic pay is, at all times, entitled to the basic allowances for subsistence on a monthly basis. An aviation cadet of the Navy, Air Force, or Marine Corps is entitled to the same basic allowance for subsistence as is provided for an officer of the Navy, Air Force, or Marine Corps, respectively.

⁴¹ Sec. 1 of the Dependents Assistance Act of 1950, as amended (50 App. U.S.C. 2201), suspended, for the duration of that Act, that part of sec. 401(3) of title 37, United States Code, which reads "and actually resides in the member's household," and further provided: "That the dependency of the father or mother as required by that section shall be determined on the basis of an affidavit submitted by such father or mother, and such other evidence as the Secretary concerned may deem necessary under such regulations as he may prescribe, and no such father or mother shall be deemed dependent unless—

"(1) the member of the uniformed service claiming such dependency has provided over one-half of the support of such father or mother for such period of time as the Secretary concerned may prescribe; or
"(2) in the case of claimed dependency arising by reason of changed circumstances after the entrance of such member into active service subsequent to the effective date of this Act, such father or mother becomes in fact dependent on such member for over one-half of his or her support."

Sec. 16 of the Dependents Assistance Act of 1950 (50 App. U.S.C. 2216) as amended by sec. 3 of the Act of Mar. 28, 1963, Public Law 88-2 (77 Stat. 4), provides that that Act shall terminate on July 1, 1967.

⁴² 76 Stat. 470.

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(d) The basic allowance for subsistence for members of the uniformed services is as follows:

Officers-----	\$47.88 a month.
Enlisted members when rations in kind are not available-----	\$2.565 a day.
Enlisted members when assigned to duty under emergency conditions where no messing facilities of the United States are available-----	Not more than \$3.42 a day.

(e) Under regulations and in areas prescribed by the Secretary of Defense, an enlisted member who is granted permission to mess separately, and whose duties require him to buy at least one meal from other than a messing facility of the United States, is entitled to not more than the pro rata allowance authorized for each such meal for an enlisted member when rations in kind are not available.

(f) The President may prescribe regulations for the administration of this section.

§ 403. Basic allowance for quarters

(a) Except as otherwise provided by this section or by another law, a member of a uniformed service who is entitled to basic pay is entitled to a basic allowance for quarters at the following monthly⁴³ rates according to the pay grade in which he is assigned or distributed for basic pay purposes:⁴⁴

Pay grade	Without dependents	With dependents
O-10-----	\$160.20	\$201.00
O-9-----	160.20	201.00
O-8-----	160.20	201.00
O-7-----	160.20	201.00
O-6-----	140.10	170.10
O-5-----	130.20	157.50
O-4-----	120.00	145.05
O-3-----	105.10	130.05
O-2-----	95.10	120.00
O-1-----	85.10	110.10
W-4-----	120.10	145.05
W-3-----	105.10	130.05
W-2-----	95.10	120.00
W-1-----	85.10	110.10
E-9-----	85.20	120.00
E-8-----	85.20	120.00
E-7-----	75.00	114.90
E-6-----	70.20	110.10
E-5-----	70.20	105.00
E-4 (over 4 years service)-----	70.20	105.00

⁴³ 70 Stat. 471.

⁴⁴ Table reflects: (1) amounts authorized in sec. 1 of the Act of July 10, 1962 (76 Stat. 152), superseding table codified in sec. 403(m) of title 37, United States Code; and (2) amounts authorized in sec. 3 of the Dependents Assistance Act of 1950, as amended (60 App. U.S.C. 2203), which replaced, for the duration of that Act, the portion of the table prescribing quarters allowances for enlisted members in pay grades E-1, E-2, E-3, and E-4 (4 years or less service). The replaced portion reads as follows:

Pay grade	Without dependents	With dependents
E-4 (4 years or less service)-----	\$45	\$45
E-3-----	45	45
E-2-----	45	45
E-1-----	45	45

(See footnote 41 for termination date of Dependents Assistance Act of 1950.)

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Pay grade ^{44a}	Without dependents	1 dependent	2 dependents	3 or more dependents
E-4 (4 years or less service)-----	\$55.20	\$83.10	\$83.10	\$105
E-3-----	55.20	83.10	83.10	105
E-2-----	55.20	83.10	83.10	105
E-1-----	55.20	83.10	83.10	105

A member in pay grade E-4 (less than 7 years' service), E-3, E-2, or E-1, is considered at all times to be without dependents.⁴⁵

(b) Except as otherwise provided by law, a member of a uniformed service who is assigned to quarters of the United States or a housing facility under the jurisdiction of a uniformed service, appropriate to his grade, rank, or rating and adequate for himself, and his dependents, if with dependents, is not entitled to a basic allowance for quarters. However, except as provided by regulations prescribed under subsection (g) of this section, a commissioned officer without dependents who is in a pay grade above pay grade O-3 and who is assigned to quarters of the United States or a housing facility under the jurisdiction of a uniformed service, appropriate to his grade or rank and adequate for himself, may elect not to occupy those quarters and instead to receive the basic allowance for quarters prescribed for his pay grade by this section.⁴⁶

(c) A member of a uniformed service without dependents is not entitled to a basic allowance for quarters while he is on field duty,

^{44a} Subsections 4(b)-(e) of the Dependents Assistance Act of 1950, as amended (50 App. U.S.C. 2204; see also sec. 2 of the Act of July 10, 1952, Public Law 87-531 (76 Stat. 152)) provide:

"(b) The payment of the basic allowance for quarters provided in section 403(a) of title 37, United States Code, for enlisted members with dependents in pay grades E-1, E-2, E-3, and E-4 (four years' or less service) shall be made only for such periods as the enlisted member has in effect an allotment of pay not less than the sum of the basic allowance for quarters to which he is entitled plus \$40, for the support of the dependent or dependents on whose account the allowance is claimed: *Provided*, That such allotment shall not be required, (1) for the calendar month in which such member enters on active duty in a pay status if the allotment is effective from the following month; (2) for the calendar month in which such member is discharged, if not immediately reenlisted; (3) for the calendar month in which such member is released from active duty; (4) for the calendar month in which dependency ceases; (5) for the calendar month in which dependency commences if the allotment is effective from the following month; (6) for the calendar month in which such member is assigned to quarters for himself and his dependents or for the calendar month in which such assignment is terminated; or (7) for the calendar months in which such member serves on active duty for training (including full-time duty performed by members of the Army or Air National Guard for which they receive pay from the United States under section 318, 503, 504, or 505 of title 32, United States Code) if that training is for a period of thirty days or more: *Provided further*, That such allotment may be initiated, continued, modified, or discontinued in accordance with such regulations as may be prescribed by the Secretary of the Department concerned: *And provided further*, That the minimum allotment required for any month shall be based on the lowest rate of basic allowance for quarters to which the member is entitled and the lowest pay grade in which the member is serving during such month.

"(c) The allotment required by subsection (b) of this section shall be paid to or on behalf of such dependent or dependents as may be specified by the enlisted member concerned, subject to such regulations as the Secretary concerned may prescribe.

"(d) Any delay in initiating an allotment as required by this section shall not invalidate entitlement to basic allowance for quarters, provided that such allotment is made retroactive for such period as the member may elect to claim the allowance for his dependent or dependents. If the Secretary concerned finds that such delay was caused by the exigencies of the service, he may waive the allotment requirement, or the additional increment thereto, as applicable, for such retroactive period.

"(e) The entitlement to the basic allowance for quarters provided for in this section shall be substantiated in such manner and in accordance with such regulations as the Secretary concerned may prescribe."

Sec. 7 of the Dependents Assistance Act of 1950, as amended (50 App. U.S.C. 2207), provides that that Act shall not apply to enlisted members in pay grades E-1, E-2, E-3, and E-4 (4 years' or less service) on active duty for training for less than 30 days, to enlisted members on active duty for training under sec. 262 of the Armed Forces Reserve Act of 1952, as amended (50 U.S.C. 1013), or any other enlistment program that requires an initial period of active duty for training, to enlisted men of the Philippine Scouts, or of the insular force of the Navy, to members of the Samoan Native Guard or Band of the Navy, or the Samoan Reserve Force of the Marine Corps. Such members who are in pay grades E-1, E-2, E-3, and E-4 (4 years' or less service) are entitled to the quarters allowance set out in footnote 44.

Sec. 8 of the Dependents Assistance Act of 1950, as amended (50 App. U.S.C. 2208), provides that aviation cadets with dependents shall be entitled to a basic allowance for quarters at the rates prescribed for members in pay grade E-4 (over 4 years' service).

⁴⁵ Sec. 2 of the Dependents Assistance Act of 1950, as amended (50 App. U.S.C. 2202), suspended, for the duration of that Act, the last sentence of sec. 403(a) of title 37, United States Code. (See footnote 41 for termination date of Dependents Assistance Act of 1950.)

⁴⁶ Amended by sec. 10 of the Uniformed Services Pay Act of 1963 (77 Stat. 210).

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unless his commanding officer certifies that the member was necessarily required to procure quarters at his expense, or while he is on sea duty. For the purposes of this subsection, duty for a period of less than three months is not considered to be field duty or sea duty.

(d) A member of a uniformed service who is assigned to quarters of the United States or a housing facility under the jurisdiction of a uniformed service may not be denied the basic allowance for quarters if, because of orders of competent authority, his dependents are prevented from occupying those quarters.

(e) Notwithstanding any other law (including those restricting the occupancy of housing facilities under the jurisdiction of a department or agency of the United States by members, and their dependents, of the armed forces above specified grades, or by members, and their dependents, of the Coast and Geodetic Survey and the Public Health Service), a member of a uniformed service, and his dependents, may be accepted as tenants in, and may occupy on a rental basis, any of those housing facilities, other than public quarters constructed or designated for assignment to and occupancy without charge by such a member, and his dependents, if any. Such a member may not, because of his occupancy under this subsection, be deprived of any money allowance to which he is otherwise entitled for the rental of quarters.

(f) Appropriations may not be used to pay a member of a uniformed service without dependents a basic allowance for quarters while he is in a travel or leave status between permanent duty stations, including time granted as delay en route or proceed time.

(g) The President may prescribe regulations for the administration of this section, including definitions of the words "field duty" and "sea duty".

§ 404.⁴⁷ Travel and transportation allowances: general

(a) Under regulations prescribed by the Secretaries concerned, a member of a uniformed service is entitled to travel and transportation allowances for travel performed or to be performed under orders, without regard to the comparative costs of the various modes of transportation

(1) upon a change of permanent station, or otherwise, or when away from his designated post of duty regardless of the length of time he is away from that post;

(2) upon appointment, call to active duty, enlistment, or induction, from his home or from the place from which called or ordered to active duty to his first station; and

(3) upon separation from the service, placement on the temporary disability retired list, release from active duty, or retirement, from his last duty station to his home or the place from which he was called or ordered to active duty, whether or not he is or will be a member of a uniformed service at the time the travel is or will be performed.

(b) The Secretaries concerned may prescribe—

(1) the conditions under which travel and transportation allowances are authorized, including advance payments thereof; and

(2) the allowances for the kinds of travel, but not more than the amounts authorized in this section.

⁴⁷ 76 Stat. 472.

(c) Under uniform regulations prescribed by the Secretaries concerned, a member who—

(1) is retired, or is placed on the temporary disability retired list, under chapter 61 of title 10;⁴⁸ or

(2) is retired with pay under any other law, or, immediately following at least eight years of continuous active duty with no single break therein of more than 90 days, is discharged with severance pay or is involuntarily released from active duty with readjustment pay;

may select his home for the purposes of the travel and transportation allowances authorized by subsection (a) of this section.

(d) The travel and transportation allowances authorized for each kind of travel may not be more than one of the following—

(1) transportation in kind, reimbursement therefor, or a monetary allowance in place of the cost of transportation at a rate that is not more than 7 cents a mile based on distances established, over the shortest usually traveled route, under mileage tables prepared by the Chief of Finance of the Army under the direction of the Secretary of the Army;

(2) transportation in kind, reimbursement therefor, or a monetary allowance as provided by clause (1) of this section, plus a per diem in place of subsistence of not more than \$16 a day; or⁴⁹

(3) a mileage allowance of not more than 10 cents a mile based on distances established under clause (1) of this section.

Where due to unusual circumstances of a travel assignment the maximum per diem allowance would be less than the amount required to meet the actual and necessary expenses of the trip, reimbursement for such expenses may be authorized, under regulations to be prescribed by the Secretaries concerned, on an actual expense basis, but not to exceed the amount specified in the travel authorization, and in any event not to exceed \$30 for each day in a travel status.⁵⁰

(e) A member who is on duty with, or is undergoing training for, the Military Air Transport Service, the Marine Corps Transport Squadrons, the Fleet Tactical Support Squadrons, or the Naval Aircraft Ferrying Squadrons, and who is away from his permanent station, may be paid a per diem in lieu of subsistence in an amount not more than the amount to which he would be entitled if he were performing travel in connection with temporary duty without, in either case, the issuance of orders for specific travel.

(f) The travel and transportation allowances authorized under this section may be paid on the member's separation from the service or release from active duty, whether or not he performs the travel involved.

§ 405.⁵¹ Travel and transportation allowances: per diem while on duty outside United States or in Hawaii or Alaska

Without regard to the monetary limitations of this title, the Secretaries concerned may authorize the payment of a per diem, considering all elements of the cost of living to members of the uniformed services under their jurisdiction and their dependents, includ-

⁴⁸ 70A Stat. 91.

⁴⁹ Subsec. 404(d)(2) reflects \$16 per diem rate authorized in sec. 1 of the Act of June 27, 1962, Public Law 87-500 (76 Stat. 111).

⁵⁰ Sentence added by sec. 2 of the Act of June 27, 1962, Public Law 87-500 (76 Stat. 111) to statute now codified as subsec. 404(d) of title 37, United States Code.

⁵¹ 76 Stat. 473.

ing a cost of quarters, subsistence, and other necessary incidental expenses, to such a member who is on duty outside of the United States or in Hawaii or Alaska, whether or not he is in a travel status. However, dependents may not be considered in determining the per diem allowance for a member in a travel status.

§ 406. Travel and transportation allowances: dependents: baggage and household effects

(a) A member of a uniformed service who is ordered to make a change of permanent station is entitled to transportation in kind for his dependents, to reimbursement therefor, or to a monetary allowance in place of that transportation in kind at a rate to be prescribed, but not more than the rate authorized under section 404(d) of this title.

(b) In connection with a temporary or permanent change of station, a member is entitled to transportation (including packing, crating, drayage, temporary storage, and unpacking) of baggage and household effects, or reimbursement therefor, within such weight allowances prescribed by the Secretaries concerned, without regard to the comparative costs of the various modes of transportation.

(c) The allowances and transportation authorized by subsections (a) and (b) of this section are in addition to those authorized by sections 404 and 405 of this title and are:

- (1) subject to such conditions and limitations;
- (2) for such grades, ranks, and ratings; and
- (3) to and from such places;

prescribed by the Secretaries concerned. Transportation of the household effects of a member may not be made by commercial air carrier at an estimated over-all cost that is more than the estimated over-all cost of the transportation thereof by other means, unless an appropriate transportation officer has certified in writing to his commanding officer that those household effects to be so transported are necessary for use in carrying out assigned duties, or are necessary to prevent undue hardship and other means of transportation will not fill those needs. However, not more than 1,000 pounds of unaccompanied baggage may be transported by commercial air carrier, without regard to the preceding sentence, under regulations prescribed under the authority of the Secretary of Defense.

(d) The nontemporary storage of baggage and household effects may be authorized in facilities of the United States, or in commercial facilities when it is considered to be more economical to the United States. However, the weight of baggage and household effects stored, plus the weight of the baggage and household effects transported, in connection with a change of station may not be more than the maximum weight limitations in regulations prescribed by the Secretaries concerned when it is not otherwise fixed by law. The nontemporary storage of baggage and household effects may not be authorized for a period longer than one year from the date the member concerned is separated from the service, except as prescribed in regulations by the Secretaries concerned for a member who, on the date of his separation, is confined in a hospital, or is in its vicinity, undergoing medical treatment.

(e) When orders directing a change of permanent station for the member concerned have not been issued, or when they have been

issued ⁵² but cannot be used as authority for the transportation of his dependents, baggage, and household effects; the Secretaries concerned may authorize the movement of the dependents, baggage, and household effects and prescribe transportation in kind, reimbursement therefor, or a monetary allowance in place thereof, as the case may be, as authorized under subsection (a) or (b) of this section. This subsection may be used only under unusual or emergency circumstances, including those in which—

- (1) the member is performing duty at a place designated by the Secretary concerned as being within a zone from which dependents should be evacuated;
- (2) orders which direct the member's travel in connection with temporary duty do not provide for return to the permanent station or do not specify or imply any limit to the period of absence from his permanent station; or
- (3) the member is serving on permanent duty at a station outside the United States, in Hawaii or Alaska, or on sea duty.

(f) Under regulations prescribed by the Secretary concerned, transportation for dependents, baggage, and household effects of a member is authorized if he dies while entitled to basic pay under chapter 3 of this title.

(g) Under uniform regulations prescribed by the Secretaries concerned, a member who—

- (1) is retired, or placed on the temporary disability retired list, under chapter 61 of title 10; ⁵³ or
- (2) is retired with pay under any other law, or, immediately following at least eight years of continuous active duty with no single break therein of more than 90 days, is discharged with severance pay or is involuntarily released from active duty with readjustment pay;

is entitled to transportation for his dependents, baggage, and household effects to the home selected under section 404(c) of this title. In addition, baggage and household effects may be shipped to a location other than the home selected by the member. In any case in which the costs are in excess of those which would have been incurred if shipment had been made to his selected home, the member shall pay that excess cost. If a member authorized to select a home under section 404(c) of this title accrues that right or any entitlement under this subsection but dies before he exercises it, that right or entitlement accrues to and may be exercised by his surviving dependents, or his baggage and household effects may be shipped to the home of the person legally entitled thereto if there are no surviving dependents. However, in any case in which the costs are in excess of those which would have been incurred if shipment had been made to the members' selected home, the surviving dependents or the person legally entitled to the baggage and household effects, as the case may be, shall pay that excess cost.

§ 407. Travel and transportation allowances: dislocation allowance

(a) Except as provided by subsections (b) and (c) of this section, under regulations approved by the Secretary concerned, a member of a uniformed service whose dependents make an authorized move in connection with his permanent change of station, is entitled to a

⁵² 76 Stat. 474.

⁵³ 70A Stat. 91.

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dislocation allowance equal to his basic allowance for quarters for one month.

(b) A member is not entitled to more than one dislocation allowance during a fiscal year unless --

(1) the Secretary concerned finds that the exigencies of the service require the member to make more than one such change of station during that fiscal year; or

(2) ⁴⁴ the member is ordered to a service school as a permanent change of station.

This subsection does not apply in time of national emergency declared after April 1, 1955, or in time of war.

(c) A member is not entitled to payment of a dislocation allowance when ordered from his home to his first duty station or from his last duty station to his home.

§ 408. Travel and transportation allowances: travel within limits of duty station

A member of a uniformed service may be directed, by regulations of the head of the department or agency in which he is serving, to procure transportation necessary for conducting official business of the United States within the limits of his station. Expenses so incurred by the member for train, bus, streetcar, taxicab, ferry, bridge, and similar fares and tolls, or for the use of privately owned vehicles at a fixed rate a mile, shall be defrayed by the department or agency under which he is serving, or the member is entitled to be reimbursed for the expense.

§ 409. Travel and transportation allowances: trailers

Under regulations prescribed by the Secretaries concerned and in place of the transportation of baggage and household effects or payment of a dislocation allowance, a member, or in the case of his death his dependent, who would otherwise be entitled to transportation of baggage and household goods under section 406 of this title, may transport a house trailer or mobile dwelling within the United States, except in Hawaii or Alaska, for use as a residence by one of the following means

(1) transport the trailer or dwelling and receive a monetary allowance in place of transportation at a rate to be prescribed by the Secretaries concerned, but not more than 20 cents a mile;

(2) deliver the trailer or dwelling to an agent of the United States for transportation by commercial means; or

(3) transport the trailer or dwelling by commercial means and be reimbursed by the United States subject to such rates as may be prescribed by the Secretaries concerned.

However, the cost of transportation under clause (2) or the reimbursement under clause (3) may not be more than the lesser of (A) the current average cost for the commercial transportation of a house trailer or mobile dwelling; (B) 36 cents a mile; or (C) the cost of transporting the baggage and household effects of the member or his dependent plus the dislocation allowance authorized in section 407 of this title. Any payment authorized by this section may be made in advance of the transportation concerned.

⁴⁴ 76 Stat. 473.

§ 410. Travel and transportation allowances: miscellaneous categories

(a) The following persons are entitled to such travel and transportation allowances provided by section 404 of this title, as prescribed by the Secretaries concerned—

- (1) cadets of the United States Military Academy;
- (2) midshipmen of the United States Naval Academy;
- (3) cadets of the United States Air Force Academy;
- (4) cadets of the Coast Guard Academy;
- (5) applicants for enlistment;
- (6) rejected applicants for enlistment;
- (7) general prisoners;
- (8) discharged prisoners;
- (9) insane patients transferred from military hospitals to other hospitals or to their homes; and
- (10) ⁶⁶ persons discharged from Saint Elizabeths Hospital after transfer from a uniformed service.

(b) The Secretary concerned shall, in prescribing allowances under subsection (a) of this section, consider the rights of the United States, as well as those of the persons concerned.

§ 411. Travel and transportation allowances: administrative provisions

(a) For the administration of sections 404 (a), (b), and (d)–(f), 405, 406 (a)–(f), 407, 409, and 410 of this title, the Secretaries concerned shall prescribe regulations that are, as far as practicable, uniform for all of the uniformed services.

(b) In establishing the rates and kinds of allowances authorized by the sections of this title designated by subsection (a) of this section, the Secretaries concerned shall—

- (1) consider the average cost of first-class transportation, including sleeping accommodations, when prescribing a monetary allowance in place of transportation;
- (2) consider the current economic data on the cost of subsistence, including lodging and other necessary incidental expenses related thereto, when prescribing per diem rates; and
- (3) consider the average cost of first-class transportation, including sleeping accommodations and current economic data on the cost of subsistence, including lodging and other necessary incidental expenses relating thereto, when prescribing mileage rates.

(c) The Secretaries concerned shall determine what constitutes a travel status for the purposes of the sections of this title designated by subsection (a) of this section.

(d) The Secretary concerned shall define the words "permanent station" for the purposes of the sections of this title designated by subsection (a) of this section. The definition shall include a shore station or the home yard or home port of a vessel to which a member of a uniformed service who is entitled to basic pay may be ordered. An authorized change in the home yard or home port of such a vessel is a change of permanent station.

§ 412. Appropriations for travel: may not be used for attendance at certain meetings

Appropriations of the Department of Defense that are available for travel may not, without the approval of the Secretary concerned

⁶⁶ 76 Stat. 476.

or his designee, be used for expenses incident to attendance of a member of an armed force under that department at a meeting of a technical, scientific, professional, or similar organization.

§ 413. Chairman of the Joint Chiefs of Staff

The Chairman of the Joint Chiefs of Staff is entitled to the allowances provided by law for the Chief of Staff of the Army.

§ 414. Personal money allowance

(a) In addition to other pay or allowances authorized by this title, an officer who is entitled to basic pay is entitled to a personal money allowance of—

(1) \$500 a year, while serving in the grade of lieutenant general or vice admiral, or in an equivalent grade or rank;

(2) \$1,200 a year, in place of any other personal money allowance authorized by this section, while serving as Surgeon General of the Public Health Service, or as Director of the Coast and Geodetic Survey;

(3) \$2,200 a year, in addition to the personal money allowance authorized by clause (1) of this subsection, while serving as a senior⁵⁸ member of the Military Staff Committee of the United Nations;

(4) \$2,200 a year, while serving in the grade of general or admiral, or in an equivalent grade or rank; or

(5) \$4,000 a year, in place of any other personal money allowance authorized by this section, while serving as Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard.

(b) In addition to other pay or allowances authorized by law, an officer who is serving in one of the following positions is entitled to the amount set forth for that position, to be paid annually out of naval appropriations for pay, and to be spent in his discretion for the contingencies of his position —

(1) Superintendent of the Naval Postgraduate School--\$400;

(2) Commandant of Midshipmen at the Naval Academy--\$800;

(3) President of the Naval War College -\$1,000;

(4) Superintendent of the Naval Academy--\$5,200; and

(5) Director of Naval Intelligence --\$5,200.

§ 415. Uniform allowance: officers; initial allowance

(a) Subject to subsections (b) and (c) of this section, a reserve officer of an armed force or an officer of the Army, or the Air Force, without specification of component, is entitled to an initial allowance of not more than \$200 as reimbursement for the purchase of required uniforms and equipment -

(1) upon first reporting for active duty (other than for training) for a period of more than 90 days;

(2) upon completing at least 14 days of active duty as a member of a reserve component; or

(3) upon completing 14 periods, each of which was of at least two hours' duration, of inactive-duty training as a member of the Ready Reserve.

(b) An officer who has received an initial uniform reimbursement or allowance under any other law is not entitled to an initial allowance under subsection (a) of this section.

(c) An officer who has served on active duty as an officer of a regular component of an armed force may not, on the basis of any duty performed within two years after his separation from that component, qualify for an initial allowance under subsection (a) of this section.

(d) An allowance of \$250 for uniforms and equipment may be paid to each commissioned officer of the Public Health Service who is—

(1) on active duty;

(2) required by directive of the Surgeon General to wear a uniform; and

(3) is entitled to the basic pay of pay grade 0-1, 0-2, or 0-3. An officer is not entitled to more than one allowance under this subsection.

(e) An enlisted member of the Navy, Marine Corps, or Coast Guard who is initially appointed as a temporary officer under section 5596 or 5597 of title 10⁵⁷ or section 435 of title 14,^{57a} as the case may be, is entitled to a uniform allowance of \$250.

§ 416. Uniform allowance: officers; additional allowance

(a) In addition to the initial uniform allowance authorized by section 415(a)–(c) of this title, a reserve officer of an armed force who has not become entitled to a uniform reimbursement or allowance as an officer during the preceding four years, is entitled to not more than \$50 as reimbursement for the purchase of required uniforms⁵⁸ and equipment, upon completion of each period, after July 9, 1952, of four years of service, as prescribed by section 1332 of title 10,⁵⁹ in an active status in a reserve component, including at least 28 days of active duty. However, periods of active duty of more than 90 days may not be included in computing that four years of service.

(b) In addition to the allowance provided by section 415(a)–(c) of this title and subsection (a) of this section, a reserve officer of an armed force, or an officer of the Army, or the Air Force, without specification of component, is entitled to not more than \$100 as reimbursement for additional uniforms and equipment required on that duty, for each time that he enters on active duty for a period of more than 90 days. However, this subsection does not apply to a tour of active duty if—

(1) the officer, during that tour or within a period of two years before entering on that tour, received, under any law, an initial uniform reimbursement or allowance of more than \$200; or

(2) the officer enters on that tour within two years after completing a period of active duty of more than 90 days' duration.

§ 417. Uniform allowance: officers; general provisions

(a) Subject to standards, policies, and procedures prescribed by the Secretary of Defense, the Secretary of each military department may prescribe regulations that he considers necessary to carry out sections 415(a)–(c) and 416 of this title within his department. The Secretary of the Treasury, with the concurrence of the Secretary of

⁵⁷ 70A Stat. 328.

^{57a} 70A Stat. 621.

⁵⁸ 76 Stat. 478.

⁵⁹ 70A Stat. 102.

the Navy, may prescribe regulations that he considers necessary to carry out those sections for the Coast Guard when it is not operating as a service in the Navy. As far as practicable, regulations for all reserve components shall be uniform.

(b) Under regulations approved by the Secretary of Defense, or by the Secretary of the Treasury with respect to the Coast Guard when it is not operating as a service in the Navy, and subject to section 415(a)-(c) or 416 of this title, a reserve officer of an armed force who has received a uniform and equipment allowance under section 415(a)-(c) or 416 of this title, may, if a different uniform is required, be paid a uniform and equipment reimbursement upon transfer to, or appointment in, another reserve component.

(c) For the purposes of sections 415(a)-(c) and 416 of this title and subsections (a) and (b) of this section, an officer may count only that duty for which he is required to wear a uniform.

§ 418. Clothing allowance: enlisted members

The President may prescribe the quantity and kind of clothing to be furnished annually to an enlisted member of the armed forces or the National Guard, and may prescribe the amount of a cash allowance to be paid to such a member if clothing is not so furnished to him.

§ 419. Allowances while participating in international sports

(a) Section 716 of title 10⁶⁰ does not authorize the payment of allowances at higher rates than those provided for participation in military activities not covered by that section.⁶¹

(b) Notwithstanding any other law, a member of a uniformed service is not entitled to travel and transportation allowances under sections 404-411 of this title for any period during which his expenses for travel or transportation are being paid by the agency sponsoring his participation in a competition covered by section 716 of title 10.⁶²

(c) Notwithstanding any other law, a member of a uniformed service who has no dependents is not entitled to the basic allowances for subsistence and quarters authorized by sections 402 and 403 of this⁶³ title for a period during which he is subsisted and quartered by the agency sponsoring his participation in a competition covered by section 716 of title 10.⁶⁴

§ 420. Allowances: no increase while dependent is entitled to basic pay

A member of a uniformed service may not be paid an increased allowance under this chapter, on account of a dependent for any period during which that dependent is entitled to basic pay under section 204 of this title.

§ 421. Contract surgeons

(a) A contract surgeon who is serving full time with a uniformed service is entitled to the basic allowances, and other allowances authorized by this chapter, of a commissioned officer in pay grade O-3 with over four, but not more than six, years of service computed under section 205 of this title.⁶⁵

⁶⁰ 72 Stat. 521.
⁶¹ See 103 of the Act of Sept. 7, 1962, Public Law 87-651, 76 Stat. 506, redesignated sec. 716 of title 10, United States Code, relating to participation of members of the armed forces in international sports, as sec. 717.

⁶² 76 Stat. 479.

⁶³ Amended by sec. 3(b) of the Uniformed Services Pay Act of 1963 (77 Stat. 210).

(b) A contract surgeon who is serving part time with a uniformed service is entitled to the travel and transportation allowances authorized by this chapter under the same conditions and in the same amounts as are applicable to commissioned officers.

§ 422. Cadets, midshipmen, and naval officer candidates

(a) A cadet at the United States Military Academy, the United States Air Force Academy, or the Coast Guard Academy, or a midshipman at the United States Naval Academy, is entitled to the allowances provided by law for a midshipman in the Navy, and to travel and transportation allowances prescribed under section 410 of this title, while traveling under orders as a cadet or midshipman.

(b) Each midshipman of the Navy to whom a Navy ration is not furnished is entitled to the commuted value of the ration in money for each day that he is on active duty, including each day that he is on leave. The Secretary of the Navy may prescribe regulations stating the conditions under which the commuted value shall be allowed and may prescribe regulations establishing the rates at which the ration shall be commuted.

(c) A midshipman appointed under section 6904 of title 10,⁶⁴ or a seaman recruit who is enlisted under section 6905 of title 10,⁶⁵ is entitled to the allowances provided for a midshipman at the United States Naval Academy for—

- (1) initial travel to the college or university in which matriculated;
- (2) travel while under orders; and
- (3) travel on discharge.

However, allowance for travel on discharge may not be paid to such a midshipman or recruit who is discharged and who continues his scholastic instruction at the same college or university.

(d) While on flight training or on flight duty, a midshipman appointed under section 6906 of title 10⁶⁶ is entitled to the allowances provided for a midshipman at the United States Naval Academy.

§ 423. Validity of allowance payments based on purported marriages

A payment of an allowance, based on a purported marriage, that is made under this chapter, under the Career Compensation Act of 1949,⁶⁷ or under the Pay Readjustment Act of 1942,⁶⁸ before judicial annulment or termination of that marriage, is valid, if a court of competent jurisdiction adjudges or decrees that the marriage was entered into in good faith on the part of the spouse who is a member of a uniformed service or if, in the absence of such a judgment or decree, such a finding of good faith is made by the Secretary concerned or by a person designated by him to investigate the matter.

§ 424.⁶⁹ Band leaders

(a) The leader of the Army Band is entitled to the allowances of a captain in the Army.

(b) The director of music at the United States Military Academy is entitled to the allowances of a commissioned officer whose grade

⁶⁴ 70A Stat. 421.

⁶⁵ 70A Stat. 422.

⁶⁶ 70A Stat. 423.

⁶⁷ 63 Stat. 802.

⁶⁸ 56 Stat. 359; 63 Stat. 839.

⁶⁹ 76 Stat. 480.

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corresponds to the rank prescribed for the director by the Secretary of the Army.

(c) The leader of the United States Navy Band is entitled to the allowances of a lieutenant in the Navy.

(d) A member of the Marine Corps who is appointed as director or assistant director of the United States Marine Corps Band under section 6222 of title 10,⁷⁰ is entitled, while serving thereunder, only to the allowances of an officer in the grade in which he is serving. However, his allowances may not be less than those to which he was entitled at the time of his appointment under that section.

(e) The leader of the Naval Academy Band is entitled to the allowances of the pay grade prescribed for him by the Secretary of the Navy under section 207(e) of this title. The second leader is entitled to the allowances of a warrant officer, W-1.

§ 425. United States Navy Band; United States Marine Corps Band: allowances while on concert tour

While on concert tours approved by the President, the members of the United States Navy Band and the United States Marine Corps Band do not forfeit allowances.

§ 426. Prisoners in naval confinement facilities

(a) A person who is confined in a naval confinement facility under the sentence of a court-martial is entitled to an amount fixed by the Secretary of the Navy, but not more than \$3 a month, for necessary expenses.

(b) Appropriations for the pay of the Navy or the Marine Corps, as the case may be, may be used for payments under this section.

§ 427. Family separation allowance

(a) In addition to any allowance or per diem to which he otherwise may be entitled under this title, a member of a uniformed service with dependents who is on permanent duty outside of the United States, or in Alaska, is entitled to a monthly allowance equal to the basic allowance for quarters payable to a member without dependents in the same pay grade if:

(1) the movement of his dependents to his permanent station or a place near that station is not authorized at the expense of the United States under section 406 of this title and his dependents do not reside at or near that station; and

(2) quarters of the United States or a housing facility under the jurisdiction of a uniformed service are not available for assignment to him.

(b) Except in time of war or of national emergency hereafter declared by Congress, and in addition to any allowance or per diem to which he otherwise may be entitled under this title, including subsection (a) of this section, a member of a uniformed service with dependents (other than a member in pay grade E-1, E-2, E-3, or E-4 (4 years' or less service)) who is entitled to a basic allowance for quarters is entitled to a monthly allowance equal to \$30 if:

(1) the movement of his dependents to his permanent station or a place near that station is not authorized at the expense of the United States under section 406 of this title and his dependents do not reside at or near that station;

⁷⁰ 72 Stat. 1508.

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(2) he is on duty on board a ship away from the home port of the ship for a continuous period of more than 30 days; or

(3) he is on temporary duty away from his permanent station for a continuous period of more than 30 days and his dependents do not reside at or near his temporary duty station.

A member who becomes entitled to an allowance under this subsection by virtue of duty described in clause (2) or (3) for a continuous period of more than 30 days is entitled to the allowance effective as of the first day of that period.⁷¹

CHAPTER 9—LEAVE

Sec.

501. Payments for unused accrued leave.
502. Absences due to sickness, wounds, and certain other causes.
503. Absence without leave or over leave.
504. Cadets and midshipmen: chapter does not apply to.

§ 501. Payments for unused accrued leave

(a) In subsections (b)–(f) of this section—

(1) “discharge” means—

(A) in the case of an enlisted member, separation or release from active duty under honorable conditions or appointment as an officer; and

(B) in the case of an officer, separation or release from active duty under honorable conditions;

(2) “child” means—

(A) a legitimate child;

(B) a legally adopted child;

(C) a stepchild, if, at the time of the death of the member or former member, the stepchild was a member of his household;

(D) an illegitimate child, in the case of a female member or former member;

(E) an illegitimate child to whose support a male member or former member has been judicially ordered or decreed to contribute, of whom he has been judicially decreed to be the father, or of whom he has acknowledged in writing under oath that he is the father; and

(F) ⁷² a person to whom the member or former member, at the time of his death, stood in loco parentis and so stood for at least 12 months before his death;

(3) “parent” means—

(A) a father or mother;

(B) a grandfather or grandmother;

(C) a stepfather or stepmother;

(D) a father or mother by adoption; or

(E) a person who for a period of not less than one year before the death of the member or former member stood in loco parentis to him;

except that not more than two persons may be treated as parents for the purposes of this clause, and preference shall be given to the persons who bore a parental relation at the time of, or most

⁷¹ See, 427 added by sec. 11 of the Uniformed Services Pay Act of 1963 (77 Stat. 210).
⁷² 76 Stat. 481.

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nearly before, the death of the member or former member; and

- (4) "brother or sister" means
 - (A) a brother or sister of the whole blood;
 - (B) a brother or sister of the half blood;
 - (C) a stepbrother or stepsister; or
 - (D) a brother or sister by adoption.

(b) An officer of the Army, Navy, Air Force, Marine Corps, Coast Guard, or Coast and Geodetic Survey who had accrued leave to his credit at the time of his discharge is entitled to be paid in cash or by a check on the Treasurer of the United States for that leave on the basis of the basic pay and allowances to which he was entitled on the date of discharge. An enlisted member of such a uniformed service who had accrued leave to his credit at the time of his discharge is entitled to be paid in cash or by a check on the Treasurer of the United States for that leave on the basis of the basic pay to which he was entitled on the date of discharge, plus an allowance computed at the rate of 70 cents a day for subsistence, and for an enlisted member in pay grade E 9, E 8, E 7, E 6, or E 5, with dependents, an allowance computed at the rate of \$1.25 a day for quarters. However, a payment may not be made under this subsection to a member who

- (1) is discharged for the purpose of accepting an appointment or a warrant, or entering into an enlistment, in his armed force; or
- (2) elects to carry over his unused leave to a new enlistment in his armed force on the day after the date of his discharge.

A member to whom a payment may not be made under this subsection, or a member who reverts from officer to enlisted status, carries the accrued leave standing to his credit from the one status to the other within his armed force.

(c) Unused accrued leave for which payment is made under subsection (b) of this section is not considered as service for any purpose.

(d) Payments for unused accrued leave under subsection (b) of this section, in the case of a member or former member who dies after retirement or discharge and before he receives that payment, shall be made upon application, to or for the living survivors highest on the following list

- (1) his surviving spouse and children, in equal shares;
- (2) his parents, in equal shares;
- (3) his brothers and sisters, in equal shares; or
- (4) the children of his deceased brothers and sisters, in equal shares.

If there is no survivor, payment may not be made under this subsection. Payment under this subsection to a survivor who has passed his seventeenth birthday and who has not passed his twenty-first birthday discharges the obligations of the United States under this subsection.

(e)⁷³ A member of the Army, Navy, Air Force, Marine Corps, Coast Guard, or Coast and Geodetic Survey who is discharged under other than honorable conditions forfeits all accrued leave to his credit at the time of his discharge.

(f) Payment may not be made for leave in excess of 60 days upon discharge or retirement.

(g) An officer of the Regular Corps of the Public Health Service, or an officer of the Reserve Corps of the Public Health Service on active

⁷³ 76 Stat. 482.

duty, who is credited with accumulated and accrued annual leave on the date of his separation, retirement, or release from active duty, shall, if his application for that leave is approved by the Surgeon General, be paid for that leave in a lump-sum on the basis of his basic pay, subsistence allowance, and allowance for quarters whether or not he is receiving that allowance on that date. However, the number of days upon which the lump-sum payment is based may not be more than 60. A lump-sum payment may not be made under this subsection to an officer—

- (1) whose appointment expires or is terminated and who, without a break in active service, accepts a new appointment;
- (2) who is retired for age in time of war and is continued on, or recalled to, active duty without a break in active service; or
- (3) who is transferred to another department or agency of the United States under circumstances in which, by any other law, his leave may be transferred.

In this subsection, "accumulated annual leave" means unused accrued annual leave carried forward from one leave year into the next leave year, and "accrued annual leave" means the annual leave accruing to an officer during one leave year.

§ 502. Absences due to sickness, wounds, and certain other causes

(a) A member of the Army, Navy, Air Force, Marine Corps, Coast Guard, or Coast and Geodetic Survey, who is absent because of sickness or wounds, or who is directed by the Secretary concerned, or his designated representative, to be absent from duty to await orders pending disability retirement proceedings for a period that is longer than the leave authorized by section 701 of title 10, is entitled to the pay and allowances to which he would be entitled if he were not so absent. A member who is absent with leave for any other reason for not longer than the leave authorized by that section is entitled to the same pay and allowances to which he would be entitled if he were not on leave, and to any additional allowances otherwise provided by law for members on leave.

(b) Except as provided in subsection (a) of this section, a member who is authorized by the Secretary concerned, or his designated representative, to be absent for a period that is longer than the leave authorized by section 701 of title 10 is not entitled to pay or allowances during the part of his absence that is more than the number of days' leave authorized by that section.

§ 503. Absence without leave or over leave

(a) A member of the Army, Navy, Air Force, Marine Corps, Coast Guard, or Coast and Geodetic Survey, who is absent without leave or over leave, forfeits all pay and allowances for the period of that absence, unless it is excused as unavoidable.

(b) A commissioned officer of the Regular Corps of the Public Health Service, or an officer of the Reserve Corps of the Public Health Service on active duty, who is absent without leave, forfeits all pay and allowances for the period of that absence, unless it is excused as unavoidable.

§ 504.⁷⁴ Cadets and midshipmen: chapter does not apply to

This chapter does not apply to cadets at the United States Military Academy, the United States Air Academy, the Coast Guard Academy,

⁷⁴ 76 Stat. 488.

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midshipmen at the United States Naval Academy, or cadets or midshipmen serving elsewhere in the armed forces.

CHAPTER 11. PAYMENTS TO MENTALLY INCOMPETENT PERSONS

Sec.

- 601. Applicability.
- 602. Payments: designation of person to receive amounts due.
- 603. Regulations.
- 604. Determination of Secretary final.

§ 601. Applicability

This chapter applies to

- (1) members of a uniformed service who are on active duty (other than for training) or who are on a retired list of that service; and
- (2) members of the Fleet Reserve or Fleet Marine Corps Reserve.

§ 602. Payments: designation of person to receive amounts due

(a) Active duty pay and allowances, amounts due for accrued or accumulated leave, or retired or retainer pay, that are otherwise payable to a member to whom this chapter applies and who, in the opinion of a board of medical officers or physicians, is mentally incapable of managing his affairs, may be paid for that member's use or benefit to any person designated by the Secretary concerned, or by any officer to whom he delegates his authority under this section, without the appointment in judicial proceedings of a committee, guardian, or other legal representative.

(b) The board shall consist of at least three qualified medical officers or physicians, one of whom is especially qualified in the treatment of mental disorders, appointed from available medical officers or physicians under his jurisdiction by the head of whichever of the following is providing medical treatment for the member, or by a person designated by that head

- (1) Department of the Army;
- (2) Department of the Navy;
- (3) Department of the Air Force;
- (4) Department of Health, Education, and Welfare; or
- (5) Veterans' Administration.

If the hospitalization or medical care of the member is not provided by the United States, the board shall be appointed by the Secretary of the department having jurisdiction of the member.

(c) A payment made to a person who is designated under this section discharges the obligation of the United States as to the amount paid.

(d) A person serving in a legal, medical, fiduciary, or other capacity, may not demand or accept a fee, commission, or other charge for any service performed under this chapter.

(e) This section does not apply in any case in which a legal committee, guardian, or other representative has been appointed by a court of competent jurisdiction, except as to payments made before the paying agency of the department concerned receives notice of that appointment.

(f) A person who is designated to receive payments under this section shall furnish satisfactory assurance that the amounts received by him will be applied to the use and benefit of the incompetent member, and, where the payments may reasonably be expected to be more than \$1,000, shall provide a suitable bond to be paid for out of amounts due the incompetent member.

§ 603.⁷⁵ Regulations

The Secretary concerned and the Administrator of Veterans' Affairs shall prescribe regulations necessary to carry out this chapter.

§ 604. Determination of the Secretary final

The determination as to the person authorized to receive a payment under section 602 of this title is final and is not subject to review by an official of the United States or a court.

CHAPTER 13—ALLOTMENTS AND ASSIGNMENTS OF PAY

See.

701. Members of Army or Air Force; contract surgeons.
702. Allotments: officers of Navy or Marine Corps.
703. Allotments: members of Coast Guard.
704. Allotments: officers of Public Health Service.
705. Assignments: enlisted members of naval service.
706. Commissioned officers of Coast and Geodetic Survey.

§ 701. Members of Army or Air Force; contract surgeons

(a) Under regulations prescribed by the Secretary of the Army or the Secretary of the Air Force, as the case may be, a commissioned officer of the Army or the Air Force may transfer or assign his pay account, when due and payable.

(b) A contract surgeon, or contract dental surgeon, of the Army or the Air Force, on duty in Alaska, Hawaii, the Philippine Islands, or Puerto Rico, may transfer or assign his pay account, when due and payable, under the regulations prescribed under subsection (a) of this section.

(c) An enlisted member of the Army or the Air Force may not assign his pay, and if he does so, the assignment is void.

(d) The Secretary of the Army or the Secretary of the Air Force, as the case may be, may allow a—

- (1) member of the Army or the Air Force; or
- (2) contract surgeon of the Army or the Air Force;

to make allotments from his pay for the support of his relatives, or for any other purpose that the Secretary concerned considers proper. If an allotment made under this subsection is paid to the allottee before the disbursing officer receives a notice of discontinuance from the officer required by regulation to furnish the notice, the amount of the allotment shall be credited to the disbursing officer. If an allotment is erroneously paid because the officer required by regulation to so report failed to report the death of the allottee or any other fact that makes the allotment not payable, the amount of the payment not recovered from the allottee shall, if practicable, be collected by the Chief of Finance (in cases involving the Army) or by the Secretary of the Air Force, from the officer who failed to make the report.

⁷⁵ 78 Stat. 484.

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§ 702. Allotments: officers of Navy or Marine Corps

The Secretary of the Navy, under regulations prescribed by him, may permit an officer of the Navy or Marine Corps to make allotments of his pay--

- (1) for the support of his family or relatives;
- (2) for his own savings; or
- (3) for other purposes.

§ 703. Allotments: members of Coast Guard

Members of the Coast Guard may, under regulations prescribed by the Secretary of the Treasury, make allotments from their pay and allowances.

§ 704.⁷⁶ Allotments: officers of Public Health Service

Commissioned officers of the Public Health Service who are on active duty may, under regulations prescribed by the President, make allotments from their pay.

§ 705. Assignments: enlisted members of naval service

Each assignment of pay due an enlisted member of the Navy or Marine Corps and each power of attorney or other authority to draw, receipt for, or transfer that pay, is void, unless attested by the member's commanding officer and the disbursing officer having custody of the member's pay record. An assignment of pay shall state the date when the transfer of pay to the assignee is to begin.

§ 706. Commissioned officers of Coast and Geodetic Survey

Under regulations prescribed by the Secretary of Commerce, commissioned officers of the Coast and Geodetic Survey may make allotments or assignments of their pay.

CHAPTER 15 PROHIBITIONS AND PENALTIES

See:

801. Restriction on payment to certain officers.
802. Forfeiture of pay during absence from duty due to disease from temperate use of alcohol or drugs.
803. Commissioned officers of Army or Air Force: forfeiture of pay when dropped from rolls.
804. Enlisted members of Army or Air Force: pay and allowances not to accrue during suspended sentence of dishonorable discharge.
805. Sale of pay by members of naval service to be discouraged by commanding officer.

§ 801. Restriction on payment to certain officers

(a) An officer of the Regular Navy or the Regular Marine Corps, other than a retired officer, may not be employed by a person furnishing naval supplies or war materials to the United States. If such an officer is so employed, he is not entitled to any payment from the United States during that employment.

(c) Payment may not be made from any appropriation, for a period of three years after his name is placed on that list, to an officer on a retired list of the Regular Army, the Regular Navy, the Regular Air Force, the Regular Marine Corps, the Regular Coast Guard, the Coast and Geodetic Survey, or the Public Health Service, who is engaged for himself or others in selling, or contracting or negotiating to sell, supplies or war materials to an agency of the Department of

⁷⁶ 76 Stat. 485.

Defense, the Coast Guard, the Coast and Geodetic Survey, or the Public Health Service.⁷⁷

§ 802. Forfeiture of pay during absence from duty due to disease from intemperate use of alcohol or drugs

A member of the Army, Navy, Air Force, or Marine Corps, on active duty who is absent from his regular duties for a continuous period of more than one day because of disease that is directly caused by and immediately follows his intemperate use of alcoholic liquor or habit-forming drugs is not entitled to pay for the period of that absence. However, a member whose pay is forfeited for more than one month is entitled to \$5 for personal expenses for each full month that his pay is forfeited. Determinations of periods and causes of absence⁷⁸ under this section shall be made as prescribed by the Secretary concerned, and are final.

§ 803. Commissioned officers of Army or Air Force: forfeiture of pay when dropped from rolls

A commissioned officer of the Army or the Air Force who is dropped from the rolls under section 1161(b) of title 10⁷⁹ for absence without authority for three months forfeits all pay due or to become due.

§ 804. Enlisted members of Army or Air Force: pay and allowances not to accrue during suspended sentence of dishonorable discharge

Pay and allowances do not accrue to an enlisted member of the Army or the Air Force who is in confinement under sentence of dishonorable discharge, while the execution of the sentence to discharge is suspended.

§ 805. Sale of pay by members of naval service to be discouraged by commanding officer

The commanding officer of a naval vessel shall discourage each member of the crew from selling any part of his pay and may not attest a power of attorney for the transfer of pay unless he is satisfied that the power is not granted in consideration of money given for the purchase of pay.

CHAPTER 17—MISCELLANEOUS RIGHTS AND BENEFITS

Sec.

901. Wartime pay of officer of armed force exercising command higher than his grade.
902. Pay of crews of wrecked or lost naval vessels.
903. Retired members recalled to active duty; former members.
904. Officers of Navy or Marine Corps promoted under chapter 545 of title 10: effective date of beginning of pay and allowances.
905. Officers of Navy or Marine Corps not covered by section 904 of this title: effective date of beginning of pay and allowances.
906. Extension of enlistment: effect on pay and allowances.

§ 901. Wartime pay of officer of armed force exercising command higher than his grade

In time of war, an officer of an armed force who is serving with troops operating against an enemy and who exercises, under assignment in orders issued by competent authority, a command above that

⁷⁷ Section reflects amendments made by the Act of Oct. 9, 1962, Public Law 87-777, to statutes now codified as sec. 801 of title 37, United States Code.

⁷⁸ 76 Stat. 486.

⁷⁹ 70A Stat. 89.

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pertaining to his grade, is entitled to the pay and allowances (not above that of pay grade O 7) appropriate to the command so exercised.

§ 902. Pay of crews of wrecked or lost naval vessels

(a) When the accounts of the disbursing officer of a naval vessel are lost as a result of the destruction of the vessel, his return for the last month may, unless there is official evidence to the contrary, be used in computing later credits to and settling accounts of persons, other than officers, carried on his accounts. If the return for the last month has not been made, the pay accounts may be settled on principles of equity and justice.

(b) When a naval vessel is lost or has not been heard from for so long that her loss may be presumed, the General Accounting Office, under the direction of the Secretary of the Navy, may fix the date of loss of the vessel for the purpose of settling the accounts of persons aboard other than officers.

(c) When the crew of a naval vessel is separated from that vessel because of her wreck, loss, or destruction, the pay and emoluments of those officers and enlisted members that the Secretary considers (because of the sentence of a court-martial or the finding of a court of inquiry, or by other satisfactory evidence) to have done their utmost to save the vessel and, after the wreck, loss, or destruction, to have behaved themselves according to the discipline of the Navy, continue and shall be paid to them until their discharge or death, whichever is earlier.

§ 903. Retired members recalled to active duty; former members

A retired member or former member of a uniformed service, or a member of the Fleet Reserve or Fleet Marine Corps Reserve, who is serving on active duty is entitled to the pay and allowances to which he is entitled, under this title, for the grade, rank, or rating in which he is serving. In addition, while on active duty, he is entitled to the pay and allowances, while on leave of absence or while sick, of a member of a uniformed service of similar grade, rank, or rating who is entitled to basic pay.

§ 904. Officers of Navy or Marine Corps promoted under chapter 545 of title 10: effective date of beginning of pay and allowances

(a) An officer who is promoted under any of sections 5751-5774 of title 10¹ is entitled to the pay and allowances of the grade to which promoted from the date of the occurrence of the vacancy that he was promoted to fill, if he is in one of the following categories:

(1) male line officers of the Navy not restricted in the performance of duty;

(2) male line officers of the Navy designated for engineering duty, aeronautical engineering duty, or special duty promoted to the grade of rear admiral;

(3) male line officers of the Navy designated for engineering duty, aeronautical engineering duty, or special duty who are promoted to the grade of lieutenant commander to fill vacancies in the combined grades of lieutenant commander, commander, and captain and whose promotion was delayed because there were no

¹ 76 Stat. 197.
² 70A Stat. 346.

vacancies for them at the time when they would otherwise have been eligible for promotion under section 5769(b) of title 10;

(4) male line officers of the Navy designated for limited duty;

(5) women line officers on the active list of the Navy promoted to the grade of commander or lieutenant commander;

(6) male officers of the Marine Corps not restricted in the performance of duty;

(7) male officers of the Marine Corps designated for supply duty promoted to the grade of brigadier general;

(8) male officers of the Marine Corps designated for supply duty who are promoted to the grade of major to fill vacancies in the combined grades of major, lieutenant colonel, and colonel and whose promotion was delayed because there were no vacancies for them at the time when they would otherwise have been eligible for promotion under section 5769(b) of title 10;

(9) male officers of the Marine Corps designated for limited duty;

(10) women officers on the active list of the Marine Corps promoted to the grade of lieutenant colonel or major; or

(11) staff corps officers of the Navy promoted to the grade of rear admiral.

(b) A male line officer of the Navy designated for engineering duty, aeronautical engineering duty, or special duty, or a male officer of the Marine Corps designated for supply duty, if not in a category listed in subsection (a) of this section, is entitled, when promoted under any of sections 5751-5774 of title 10, to the pay and allowances of the grade to which promoted from the date on which he became eligible for promotion to that grade.

(c)⁸² A woman line officer on the active list of the Navy promoted to the grade of lieutenant or a woman officer on the active list of the Marine Corps promoted to the grade of captain under any of sections 5751-5774 of title 10⁸³ is entitled to the pay and allowances of the grade to which promoted from July 1 following the date on which the President approved the report of the selection board that recommended her for promotion.

(d) Except as provided by subsection (e) of this section, a male staff corps officer or a woman staff corps officer who is promoted to a grade below rear admiral under any of sections 5751-5774 of title 10 is entitled to the pay and allowances of the grade to which promoted from the date on which his running mate in that grade became eligible for promotion to that grade.

(e) An officer in the Nurse Corps who is promoted to the grade of captain or commander under any of sections 5751-5774 of title 10 is entitled to the pay and allowances of the grade to which promoted from—

(1) the date of the occurrence of the vacancy that he was promoted to fill; or

(2) the date on which the President approved the report of the selection board that recommended him for promotion; whichever is later.

⁸² 76 Stat. 488.
⁸³ 70A Stat. 346.

**§ 905. Officers of Navy or Marine Corps not covered by section 904
of this title: effective date of beginning of pay and allowances**

(a) The pay of an officer of the Regular Navy or the Regular Marine Corps begins on the date he accepts his initial appointment, except that

(1) the pay of an officer required to give an official bond begins on the date the bond is approved by proper authority; and

(2) the pay of an officer commissioned within six months after his graduation from the United States Naval Academy begins on the date of rank stated in his commission.

(b) A reserve officer who is promoted under chapter 549 of title 10⁵⁴ to a grade above lieutenant (junior grade) in the Naval Reserve or above first lieutenant in the Marine Corps Reserve is entitled to the pay and allowances of the grade to which promoted for duty performed from the date on which he became eligible for promotion to that grade. However, if an officer has not established his professional and moral qualifications, as prescribed by the Secretary of the Navy under section 5867 of title 10, within one year after the date on which the President approved the report of the selection board that recommended him for promotion, he is entitled to the pay and allowances of the grade to which promoted only from the date he is appointed in that grade.

(c) A reserve officer who is promoted under section 5908 of title 10 to the grade of lieutenant (junior grade) in the Naval Reserve or first lieutenant in the Marine Corps Reserve is entitled to the pay and allowances of the higher grade for duty performed from the date given him as his date of rank.

(d) An officer of the Navy or Marine Corps who is promoted under section 5788 of title 10⁵⁵ is entitled to the pay and allowances of the higher grade from his date of rank in that grade unless he is entitled to them from an earlier date under another law.

(e) A woman officer temporarily promoted under section 5787b of title 10⁵⁶ is entitled to the pay and allowances of the higher grade from the date of her eligibility for that temporary promotion.

(f) An officer appointed in a higher grade under section 5505 of title 10⁵⁷ is entitled to the pay and allowances of the higher grade from the date of his appointment in that grade.

(g)⁵⁸ A member of the naval service who is appointed under section 5597 of title 10⁵⁹ is entitled to the pay and allowances of the grade in which appointed from the date that appointment is made. Such a person may not suffer a reduction in the pay and allowances to which he was entitled because of his permanent status at the time of his temporary appointment, or a reduction in the pay and allowances to which he was entitled under a prior temporary appointment in a lower grade.

(h) A member of the naval service who is appointed under section 5787 of title 10⁶⁰ is entitled to the pay and allowances of the grade in which appointed from the date that appointment is made. Such

⁵⁴ 72 Stat. 1469; 10 U.S.C. 5891-5912.

⁵⁵ 70A Stat. 367.

⁵⁶ 72 Stat. 1497.

⁵⁷ 70A Stat. 316; 74 Stat. 273.

⁵⁸ 76 Stat. 149.

⁵⁹ 70A Stat. 330.

⁶⁰ 70A Stat. 366.

a member may not suffer a reduction in the pay and allowances to which he was entitled at the time of his appointment.

§ 906. Extension of enlistment: effect on pay and allowances

(a) A member of the Army or the Air Force, as the case may be, who extends his enlistment under section 3263 or 8263 of title 10⁹¹ is entitled to the same pay and allowances as though he had reenlisted.

(b) A member of the Regular Navy or the Regular Marine Corps, as the case may be, who extends his enlistment under section 5539 of title 10⁹² is entitled to the same pay and allowances as though he had reenlisted. For the purposes of determining entitlement to reenlistment bonus and to travel and transportation allowances upon discharge, all such extensions of enlistment are considered one continuous extension.

CHAPTER 19—ADMINISTRATION

Sec.

1001. Regulations relating to pay and allowances.

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1004. Computation of pay and allowances for month or part of month.

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§ 1001. Regulations relating to pay and allowances

(a) A Secretary of a military department may not prescribe a regulation under this title or any other law, relating to the pay and allowances of members of an armed force under that department, unless it has been approved under procedures prescribed by the Secretary of Defense.

(b) Regulations of the Secretary concerned relating to pay matters, similar to those covered by subsection (a) of this section, for members of the Coast Guard, the Coast and Geodetic Survey, and the Public Health Service, shall, as far as practicable, conform to regulations approved under that subsection.

(c) The Secretary of Defense, the Secretary of the Treasury, the Secretary of Commerce, or the Secretary of Health, Education, and Welfare, may obtain from the Comptroller General an advisory opinion with respect to a proposed regulation especially affecting a department under that Secretary's jurisdiction.

§ 1002. Additional training or duty without pay: Reserves and members of National Guard

(a) A member of the National Guard, or of a reserve component of a uniformed service, may, with his consent, be given additional training or other duty as provided by law, without pay, as may be authorized by the Secretary concerned.

(b) A member who performs training or other duty without pay under subsection (a) of this section may, in the discretion of the Secretary⁹³ concerned, be authorized the travel and transportation allowances prescribed by section 404(a)–(d), and (f), of this title for travel performed to and from that training or duty, and, during the

⁹¹ 72 Stat. 1465, 1516.

⁹² 70A Stat. 320.

⁹³ 76 Stat. 490.

performance of that training or duty, be furnished with subsistence and quarters in kind or commutation thereof at a rate to be fixed by the Secretary concerned.

(c) This section does not authorize compensation for work or study performed by a member of a reserve component in connection with correspondence courses of an armed force.

(d) This section does not apply to a member who is entitled to basic pay under chapter 3 of this title.

§ 1003. Assimilation of pay and allowances

Chapters 3 and 5 and sections 402-407, 409-411, and 414 of this title apply equally to persons who are not serving as members of a uniformed service but whose pay or allowances, or both, are assimilated under law or a regulation prescribed under law, to the pay or allowances, or both, of commissioned officers, warrant officers, or enlisted members of any grade, rank, or rating in any uniformed service.

§ 1004. Computation of pay and allowances for month or part of month

A member of a uniformed service who is entitled to pay and allowances under this title for a continuous period of less than one month is entitled to his pay and allowances for each day of that period at the rate of 1/30 of the monthly amount of his pay and allowances. The thirty-first day of a calendar month may not be excluded from a computation under this section.

§ 1005. Army and Air Force: prompt payments required

Members of the Army and of the Air Force shall be paid at such times that arrears will at no time be more than two months, unless circumstances make further arrears unavoidable.

§ 1006. Advance payments

(a) Under regulations prescribed by the Secretary concerned, not more than three months' pay may be paid in advance to a member of an armed force upon his permanent change of station.

(b) Under regulations prescribed by the Secretary concerned, a member of an armed force who is on duty at a distant station where the pay and emoluments to which he is entitled cannot be disbursed regularly, may be paid in advance.

(c) Under regulations prescribed by the Secretary concerned, an advance of pay to a member of an armed force who is on duty outside the United States, or other place designated by the President, of not more than two months' basic pay may be made directly to his previously designated dependents who are ordered evacuated by competent authority. An advance of pay under this subsection is not subject to the conditions under which advances of pay may be made under subsection (a) or (b) of this section, and may be made only if all dependents of members of the armed forces are ordered evacuated from the place where the member's dependents are located.

(d) If a person to whom an advance of pay is made under subsection (a), (b), or (c) of this section dies or is separated from his armed force, before liquidation of that advance, the amount remaining unliquidated at the time of his death or separation shall be credited to the account of the disbursing officer concerned. However, the unliquidated amount remains a debt of that person or his estate to the United States.

(e) As far as practicable, regulations for the administration of subsections (a)–(d) of this section shall be uniform for all of the armed forces.

(f)⁹⁴ Under regulations prescribed by the Secretary of the Treasury, an advance of pay of not more than three months' pay may be made to an officer of the Coast Guard who is ordered to sea duty or to or from shore duty beyond the seas. In addition, the Commandant of the Coast Guard may direct such advances as he considers necessary and proper to members of the Coast Guard stationed at distant stations where the pay and emoluments to which they are entitled cannot be paid regularly.

§ 1007. Deductions from pay

(a) The pay of an officer of an armed force may be withheld, under section 82 of title 5, only for an indebtedness to the United States admitted by the officer or shown by the judgment of a court, or upon a special order issued in the discretion of the Secretary concerned.

(b) An amount due the United States from an enlisted member of the Army or the Air Force for articles sold to him on credit under section 4621(a)(1) or 9621(a)(1) of title 10,⁹⁵ as the case may be, shall be deducted from the next pay due him after the sale is reported. In the case of a member of the Army, the report shall be made to the Chief of Finance. An amount due the United States from an enlisted member of the Army or the Air Force for tobacco sold to him by the United States under section 4623 or 9623 of title 10 shall be deducted from his pay in the manner provided for the settlement of clothing accounts.

(c) Under regulations prescribed by the Secretary concerned, an amount that an enlisted member of the Army or the Air Force is administratively determined to owe the United States or any of its instrumentalities may be deducted from his pay in monthly installments. However, after the deduction of pay forfeited by the sentence of a court-martial, if any, or otherwise authorized by law to be withheld, the deductions authorized by this section may not reduce the pay actually received for any month to less than one-third of his basic pay for that month.

(d) Subject to subsection (c) of this section, an amount due the United States from an enlisted member of the Army or the Air Force may be deducted from his pay on final statement, or from his savings on his clothing allowance.

(e) The amount of any damage, or cost of repairs, to arms or equipment caused by the abuse or negligence of a member of the Army or the Air Force, as the case may be, who had the care of, or was using, the property when it was damaged, shall be deducted from his pay.

(f) If, upon final settlement of the accounts of an officer of the Army or the Air Force charged with the issue of an article of military supply, there is a deficiency of that article, or if an article of military supply with whose issue an officer is charged is damaged, the value of the lost article or the amount of the damage shall be charged against the officer and deducted from his monthly pay, unless he shows to the satisfaction of the Secretary of the Army or the Secretary of the Air

⁹⁴ 76 Stat. 491.
⁹⁵ 70A Stat. 257, 579.

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Force, as the case may be, by one or more affidavits setting forth the circumstances, that he was not at fault.

(g) An amount due the United States from an officer of the Army or the Air Force for rations bought on credit, and for articles bought on credit under section 4621(a)(1) or 9621(a)(1) of title 10, shall be deducted from the next pay due that officer after the sale is reported.

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